

THIS PRINT COVERS CALENDAR ITEM NO. : 13

**SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY**

DIVISION: Transit Services

BRIEF DESCRIPTION:

Requesting authorization for the Director of Transportation to execute Amendment No. 1 to Contract No. SFMTA-2013-08 with New Flyer of America Inc., to purchase 17 additional 40-foot low floor diesel-hybrid buses through the Cooperative Purchasing Agreement established by the State of Minnesota's Materials Management Division, for an additional amount of \$11,780,005, and a total contract amount of \$48,669,369, with no change to the term of the contract.

SUMMARY:

- On or about October 23, 2012, the SFMTA entered into a contract with New Flyer of America Inc. for the purchase of 45 low floor diesel hybrid coaches and related tools, training and spare parts in the amount of \$36,889,364.
- This purchase was made through the state of Minnesota's Cooperative Purchasing Venture (CPV) of which SFMTA became a member on March 6, 2012.
- In July 2012, the Federal Transit Administration (FTA) awarded the SFMTA \$15 million in a State of Good Repair (SOGR) grant toward the replacement of its fleet of 40' standard, high floor diesel buses that have been in service beyond their useful life of 12 years.
- The SOGR funds, along with local matching sales tax funds through Proposition K, will allow the SFMTA to purchase 17 more low floor diesel hybrid coaches in addition to the original 45 coaches.
- This amendment will increase the amount of the contract by \$11,780,005 to \$48,669,369, without changing the term of the contract.

ENCLOSURES:

1. SFMTA Board Resolution
2. Amendment No. 1

APPROVALS:

DATE

DIRECTOR OF TRANSPORTATION _____ 10/30/12

SECRETARY _____ 10/30/12

ASSIGNED SFMTAB CALENDAR DATE: November 6, 2012

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PURPOSE:

The purpose of this calendar item is to request authorization for the Director of Transportation to execute Amendment No. 1 to Contract No. SFMTA-2013-08 (Procurement of Low Floor Diesel Hybrid Coaches) with New Flyer of America, Inc. (New Flyer), to procure 17 additional coaches.

GOAL:

Procuring the additional vehicles will allow the SFMTA to replace 17 of its 1996 Gillig buses which are past their useful life of 12 years in order to improve service reliability, and meet the following goal and objective of the SFMTA's Strategic Plan:

Goal 2: Make transit, walking, bicycling, taxi, ridesharing and carsharing the preferred means of travel

Objective No. 2.2: Improve transit performance

DESCRIPTION:

On September 4, 2012, the SFMTA Board of Directors adopted Resolution No. 012-116, authorizing the Director of Transportation to execute Contract No. SFMTA-2013-08 (Procurement of Low Floor Diesel Hybrid Coaches) with New Flyer, for an amount not to exceed \$36,889,364. On October 2, 2012, the Board of Supervisors adopted Resolution No. 356-12, approving the purchase. These 45 coaches will replace the 45 coaches purchased from North American Bus Industries in 1999.

The SFMTA staff used the Minnesota Cooperative Purchasing Venture (CPV) to purchase these 45 low floor diesel hybrid coaches. The Minnesota CPV, which was established by Minnesota Statute Section 16C.03, subdivision.10, allows eligible entities to purchase goods, certain services and utilities from contracts established by the Materials Management Division (MMD) for Minnesota state agencies. MMD issues competitive solicitations for vendors to provide goods, services and utilities to state agencies. This program allows eligible governmental entities to use these contracts just like Minnesota agencies. MMD's current list of qualified vendors for hybrid buses expires December 31, 2012.

Minnesota statute Section 471.59, subdivision 1, known as the Joint Powers Act, defines the governmental entities that may join the CPV program to include counties, cities, towns, townships, and school districts, and other entities. The SFMTA was eligible to join the CPT under Section 471.59, subdivision 1. On March 6, 2012, the SFMTA Board adopted Resolution No. 12-029, which authorized the SFMTA to join the CPV. FTA encourages such arrangements provided that all FTA requirements are followed.

In July 2012, the Federal Transit Administration (FTA) awarded the SFMTA \$15 million in a State of Good Repair (SOGR) grant toward the replacement of its fleet of 40' standard, high-floor diesel buses that have been in service beyond their useful life of 12 years. Along with Prop K matching funds, the SOGR funds are sufficient to replace 17 of the SFMTA's 45 Gillig motor coaches. This amendment will allow the SFMTA to combine the procurement of replacements

for its NABI coaches with replacement of 17 Gillig coaches to realize economies of scale.

Staff has determined that the most cost-effective and expeditious way to enter into a contract for the additional 17 low floor diesel hybrid coaches is to include the order with the existing contract to purchase 45 coaches. However, in order to keep the price of the additional coaches the same as the 45 coaches in the original contract and allow the vendor to include these additional coaches in the same production run, the amendment needs to be executed prior to the end of 2012.

As stated above, Minnesota MMD's list of qualified vendors expires at the end of 2012. If the City is not able to meet this timetable, it will have to wait until MMD issues a request for proposals and finalizes the 2013 list, which is expected to occur in February of 2013.

ALTERNATIVES CONSIDERED:

Staff did not consider other alternatives to purchasing the additional coaches since using the RFP process will increase the time to procure these coaches and possibly increase the price of the vehicles due to the small number of additional coaches that SFMTA needed to purchase.

FUNDING PLAN AND IMPACT:

The amount of the original New Flyer contract is \$36,889,364. With tax, warranty support, staff project support and required vehicle inspections, the total project cost was \$42,254,582. The purchase of 17 additional buses will increase the contract amount with New Flyer to \$48,669,369 and the total project cost will be \$55,417,137. See below for the revised total project budget.

Total Project Budget

Category	Cost
New Flyer Contract Total	
Vehicles (62)	\$44,030,286
Tools & Diagnostics	\$278,037
Training	\$1,299,046
Fee for insurance/storage of engines	\$62,000
Allowance for Spare Parts	\$3,000,000
Subtotal New Flyer Contract	\$48,669,369
Other Associated Costs	
Tax (8.5%)	\$4,136,896
Warranty support	\$229,622
Project support (SFMTA staff, ODC)	\$1,781,250
Vehicle Inspection at Plant (FTA Required)	\$600,000
Subtotal Other Associated Costs	\$6,747,768
Total Cost	\$55,417,137

The recent award of federal SOGR funds results in a revised project financial plan as shown below:

Financial Plan

Project Funding Source	Amount
Federal Grant (5307)	\$24,113,138
Federal Grant (SOGR)	\$15,000,000
Proposition K	\$16,257,805
SFMTA Operating Funds	\$46,194
Total Funding	\$55,417,137

The scope of the SOGR grant was intended to fund a portion of the original 45 vehicle procurement with the balance going toward replacing a number of Gillig buses, depending on the cost of each bus. Staff needed time to perform an analysis to identify local matching funds and to determine the number of additional buses that can be purchased with the balance of the SOGR funds. In order to avoid delaying the procurement of the original 45 vehicles, staff recommended submitting the calendar item to the SFMTA Board, for the purchase of these 45 vehicles in September. Recently, staff concluded their analysis and determined that 17 buses can be purchased in addition to fully funding the original contract for 45 buses.

OTHER APPROVAL RECEIVED OR STILL REQUIRED:

The City Attorney's Office has reviewed this calendar item.

The amendment will require approval from the Board of Supervisors.

RECOMMENDATIONS:

Staff recommends that the SFMTA Board authorize the Director of Transportation to execute Amendment No. 1 to SFMTA Contract No. SFMTA-2013-08 with New Flyer, to purchase 17 additional coaches, for an increase in the contract amount of \$11,780,005, and a total contract amount not to exceed \$48,669,369, with no change to the term of the contract.

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No.

WHEREAS, Under Section 21.16 of the San Francisco Administrative Code, the SFMTA may utilize the competitive procurement process of any other public agency to make purchases of commodities under the terms established in that agency's procurement process and as agreed upon by the City and the procuring agency, upon making a determination that the other agency's procurement process was competitive and the use of the other agency's procurement process would be in the City's best interests; and

WHEREAS, The State of Minnesota, through its Materials Management Division (MMD), established the Cooperative Purchasing Venture (CPV) to allow eligible entities to purchase goods, certain services and utilities from contracts established by the MMD for Minnesota state agencies; and

WHEREAS, Minnesota statute Section 471.59, subdivision 1, known as the Joint Powers Act, defines the governmental entities that may join the CPV program to include counties, cities, towns, townships, and school districts, and other entities; and

WHEREAS, In 2011, the State of Minnesota issued a competitive request for proposal for 2012-13 model year transit buses, including heavy duty (Class 700) low floor diesel hybrid coaches, on behalf of the members of the Minnesota CPV (the Minnesota Procurement); the Minnesota Procurement complied with the third party procurement requirements of the Federal Transit Administration; and

WHEREAS, On March 6, 2012, the San Francisco Municipal Transportation Agency (SFMTA) Board of Director adopted Resolution No. 12-029, which authorized the SFMTA to join the Minnesota CPV; and

WHEREAS, On September 4, 2012, the SFMTA Board of Directors adopted Resolution No. 012-116, authorizing the Director of Transportation to execute Contract No. SFMTA-2013-08 (Procurement of Low Floor Diesel Hybrid Coaches) with New Flyer, for an amount not to exceed \$36,889,364, which contract was approved by the Board of Supervisors under Resolution No. 356-12; and

WHEREAS, In July 2012, the Federal Transit Administration awarded the SFMTA \$15 million in federal State of Good Repair (SOGR) grant funds that will be used to fund this project; and

WHEREAS, Based on the price of the buses in the original contract with New Flyer, the level of the SOGR grant, along with local matching sales tax funds through Proposition K, will allow the SFMTA to purchase 17 additional low floor diesel hybrid coaches; now, therefore be it

RESOLVED, Based on the above, the SFMTA Board of Directors finds that it is in the best interests of the City that the SFMTA procure 17 additional 40-foot low floor diesel hybrid buses through the Minnesota Cooperative Purchasing Venture by amending its contract with New Flyer; and be it

FURTHER RESOLVED, That the SFMTA Board of Directors authorizes the Director of Transportation to execute Amendment No. 1 to Contract No. SFMTA-2013-08 with New Flyer of America Inc., to purchase 17 additional 40-foot low floor diesel-hybrid buses through the Cooperative Purchasing Agreement established by the State of Minnesota's Materials Management Division, for an additional amount of \$11,780,005, and a total contract amount of \$48,669,369, with no change to the term of the contract; and be it

FURTHER RESOLVED, That the SFMTA Board of Directors commends Amendment No. 1 to the Board of Supervisors for its review and approval.

I certify that the foregoing resolution was adopted by the Municipal Transportation Agency Board of Directors at its meeting of November 17, 2012.

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

Amendment No. 1 to
Agreement between
the City and County of San Francisco
and
New Flyer of America Inc.
for Procurement of Heavy Duty Low Floor Diesel Hybrid Coaches
through the Minnesota Cooperative Purchasing Venture
Contract No. SFMTA-2013-08
CCO No. 12-1201
Minnesota Contract No. 40763

This Amendment No. 1 is made and effective this _____ day of _____, 2012, in the City and County of San Francisco, State of California, by and between: New Flyer of America Inc., a North Dakota corporation, 711 Kernaghan Avenue, Winnipeg, Manitoba, Canada R2C 3T4 (“Contractor” or “New Flyer”), and the City and County of San Francisco, a municipal corporation (“City”), acting by and through its San Francisco Municipal Transportation Agency (“SFMTA”).

Recitals

A. In 2011, the State of Minnesota (Minnesota) issued a request for proposal (RFP) for 2012-13 Model Year transit buses, including heavy duty (Class 700) low floor diesel hybrid coaches (Buses), on behalf of the members of the Minnesota Cooperative Purchasing Venture (CPV) (the Minnesota Procurement). The Minnesota Procurement complied with the third party procurement requirements of the Federal Transit Administration.

B. New Flyer submitted a proposal in response to the Minnesota Procurement that was opened on December 23, 2011. Minnesota accepted the proposal and issued Notification of Contract Award to New Flyer on or about February 3, 2012.

C. On or about March 7, 2012, the SFMTA entered into an agreement with Minnesota to become a member of the CPV.

On October 23, 2012, the City entered into Contract No. SFMTA-2013-08 with New Flyer (the Agreement) to purchase 45 Buses under the terms and conditions of the Minnesota Procurement, as modified by the provisions of the Agreement.

The City now wishes to purchase 17 additional Buses from New Flyer under the Minnesota Procurement, according to the terms set forth in this Amendment.

Now, THEREFORE, the parties agree as follows:

1. Section 2 of the Agreement (Agreement) is amended to read as follows:

2. Agreement. Under this Agreement, Contractor agrees to sell, and the City agrees to purchase, 62 new Standard Low Floor Hybrid Diesel Buses, associated spare parts, training, manuals, and special tools, as itemized in Exhibits A, A-1, A-2, B, and D, according to the terms and conditions set forth in this Agreement. Exhibit B sets forth the changes from the Contractor's Proposal to Minnesota and the respective price differentials of those changes.

2. Section 6.1 of the Agreement (Amount) is amended to read as follows:

6.1 Amount. The City agrees to pay an amount not to exceed Forty-Eight Million, Six Hundred Sixty-Nine Thousand, Three Hundred Sixty-Nine Dollars (\$48,669,369) (the "Total Contract Amount"), as summarized in Exhibit A (Price Schedule), and in accordance with the terms and conditions of this Agreement. The Total Contract Amount includes an allowance of \$3,000,000 for spare parts. The parties will amend this Agreement to include a final list of spare parts to be supplied under the Agreement. City may withhold payment to Contractor in any instance in which Contractor has failed or refused to satisfy any material obligation provided for under this Agreement and has not remedied such default within a reasonable period of time. In no event shall City be liable for interest or late charges for any late payments.

3. Exhibit A is replaced with a new Exhibit A, attached to this Amendment and incorporated by reference as though fully set forth.

4. Exhibit C is replaced with a new Exhibit C, attached to this Amendment and incorporated by reference as though fully set forth.

5. Except as expressly modified by this Amendment, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first mentioned above.

CITY

CONTRACTOR

San Francisco Municipal Transportation Agency

New Flyer of America

Edward D. Reiskin
Director of Transportation

Name:

Title:

Approved as to Form:

Dennis J. Herrera
City Attorney

Name:

Title:

By _____
Robin M. Reitzes
Deputy City Attorney

San Francisco Municipal Transportation Agency

711 Kernaghan Avenue
Winnipeg, Manitoba, Canada R2C 3T4

Board of Directors

City vendor number:

Resolution No. _____

Dated: _____

Attest:

Secretary, SFMTA Board of Directors

Board of Supervisors
Resolution No. _____

Dated: _____

Attest:

Clerk of the Board

Exhibits:

- Exhibit A – Price Schedule
- Exhibit C – Delivery Schedule

EXHIBIT A
PRICE SCHEDULE

Item	Price per unit	Number of units	Total Price
XDE40 (ISL / EV50) hybrid coach	\$741,069	23	\$17,044,587
XDE40 (ISB / BAE) hybrid coach	\$691,941	39	\$26,985,699
Tooling & Diagnostics	See Exhibit A-1	See exhibit A-1	\$278,037
Training	See Exhibit A-2	See Exhibit A-2	\$1,299,046
Fee for insurance/storage of engines	\$1,000	62	\$62,000
Allowance for Spare Parts	To be determined	TBD	\$3,000,000
Contract Total			\$48,669,369

EXHIBIT C
DELIVERY SCHEDULE

Item	Calendar Days after Notice to Proceed
Submittal of Baseline Schedule	60
Submittal of vehicle drawings	90
Submittal of training program (including lesson plans)	90
Delivery of prototype coach ¹	180
Submittal of draft operations, maintenance, parts manuals, recommended spare parts	180
Start of training program	180

Item	Calendar Days after Approval of Prototype
Beginning of coach delivery ²	90
Delivery of first half of spare parts (Lot 1)	90
Delivery of second half of spare parts (Lot 2)	180
Submittal of final operations, maintenance, and parts manuals	30
Delivery of special tools	90
Completion of coach delivery	180

¹Approval to deliver prototype will not be granted until after receipt and approval of all vehicle drawings, control and test plans.

²Approval to deliver production vehicles will not be granted until after submittal of a satisfactory training plan; draft operations, maintenance, and parts manuals; and after successful completion of all appropriate pre-acceptance tests.