



Board Report

File #: 2016-0836, File Type: Contract

Agenda Number: 17.

**SYSTEM SAFETY, SECURITY AND OPERATIONS COMMITTEE
MARCH 15, 2018**

**SUBJECT: PROCUREMENT OF FIVE 60' ARTICULATED ZERO
EMISSION TRANSIT BUSES**

ACTION: APPROVE RECOMMENDATIONS

RECOMMENDATION

CONSIDER:

- A. AUTHORIZING the Chief Executive Officer (CEO) to execute Modification No. 1 to the firm fixed price Contract No. OP28367-001, Part D, awarded to New Flyer of America (NF) for the:
1. Increase in the base contract procurement of 60 foot zero emission vehicles from a quantity of thirty-five (35) to forty (40);
 2. Increase in the quantity of On-Route chargers from seven (7) to eight (8) and Shop chargers from one (1) to two (2); and
 3. Increase the contract amount by \$7,371,287, from \$51,211,033 to \$58,582,320.
- B. AUTHORIZING the CEO to increase the price for Optional Vehicle Features, Spare Parts, and Training Aids by \$530,575 from a not-to-exceed amount of \$8,839,064 to a not-to-exceed amount of \$9,369,639; and
- C. INCREASING the life-of-project budget of CP 201073 from \$72,101,419 to \$80,003,282 for the purchase of forty zero emission buses, charging equipment, installation costs, infrastructure upgrades, and contingency.

ISSUE

Consistent with Metro Board direction, Metro is in the process of converting the Metro Orange Line (MOL) from 100% Compressed Natural Gas (CNG) operation to 100% Zero Emission Buses (ZEB) operation by 2020. Two of three contracts have been awarded to procure the forty-five ZEB's required to fully electrify the line. One contract was issued to Build Your Dreams for **five** 60-foot ZEB's; the other contract was awarded to New Flyer for **thirty-five** 60-foot ZEB's. The intent was to procure the remaining **five** ZEB's from NF under a contract partially funded by a special Low or No

Emission (Lo/No) grant. The vehicles proposed under the third contract are identical to the vehicles that will be provided by NF under Contract No. OP28367-001, Part D. To make effective and efficient use of both Metro's and New Flyer's resources it is recommended to merge these contracts.

This action authorizes the amendment of Contract No. OP28367-001, Part D, to New Flyer for the addition of five 60-foot battery electric buses, associated charging equipment, price adjustments for Optional Vehicle Features, Spare Parts and Training Aids, and adjustment to the LOP.

DISCUSSION

In April 2016, Metro was awarded a Federal Transit Administration (FTA) Lo/No grant in the amount of \$4,275,000, with Metro responsible for the matching funds, for the purchase of five New Flyer 60-foot battery electric, articulated buses and charging equipment for deployment on the Metro Orange Line. At the time Metro was in the midst of a competitive solicitation for thirty-five 60' battery electric articulated buses. To preclude potential conflict with the competitive solicitation, it was determined to be in Metro's best interest to complete the solicitation before executing the contract for the five buses funded by the Lo/No grant.

In March 2017, the Metro Board awarded Contract No. OP29199 to BYD Motors for the procurement of five 60-foot Zero Emission Buses and charging equipment. These buses are a replacement of the five buses that were bought-back by BYD.

In July 2017, the Metro Board awarded Contract No. OP28367-001, Part D, to New Flyer of America for the procurement of thirty-five 60-foot Zero Emission Buses and charging equipment.

Following the successful completion of the competitive solicitation, staff evaluated the best options for exercising the contract for the buses funded by the Lo/No grant. The analysis determined that the most effective and efficient use of its resources is to merge the contract awarded to NF for the procurement of 35-quantity 60-foot ZEB's with the contract to NF for the procurement of 5-quantity 60-foot ZEB's funded by the Lo/No grant. However, such an approach will require approval by the Metro Board to modify awarded contract OP28367-001. The Contract will need to be modified as follows:

- Increase the quantity of vehicles from 35 to 40;
- Increase the quantity of associated on-route and shop chargers from 7 to 8 and 1 to 2; respectively;
- Increase in the associated costs for vehicles and chargers by \$7,371,287;
- Increase the associated costs for Optional Features, Spare Parts, and Training Aids by \$530,575; and
- Increase the LOP by \$7,901,863 from \$72,101,419 to \$80,003,282.

Local Employment Program (LEP)

The contract award approval for the New Flyer 60-foot ZEB was made contingent upon New Flyer augmenting their LEP commitment to include program elements that New Flyer offered at the July 2017 Board meeting. The new contract elements were formally adopted by Director Bonin's amendment to the award approval. The new LEP elements include:

- A commitment for New Flyer to create jobs that meet or exceed the living wage standard for the City of Los Angeles Government Contractors
- A commitment for New Flyer to develop a pre-apprenticeship program which will result in sustainable career development and transferable skills in vehicle manufacturing for Californians
- A commitment that New Flyer include a minimum 40% of the new jobs created under the LEP will be provided to Disadvantaged workers from underrepresented communities in manufacturing, such as minorities, women, veterans, and disabled citizens in California

These additional LEP contractual elements have all been added to the Contract with New Flyer and will be measured by staff for compliance. Staff is monitoring progress to all LEP commitments through quarterly reports and annual audits. Most of New Flyers commitments for new hiring will support their warranty repair services scheduled over this multiyear contract.

Transit Vehicle Manufacturer (TVM) Certification

The Diversity and Economic Opportunity Department (DEOD) did not recommend a Disadvantaged Business Enterprise (DBE) participation goal for this rolling stock procurement. Transit Vehicle Manufacturers (TVMs), as a condition of authorization to bid or propose on FTA-assisted transit vehicle procurements, are required to establish and submit for FTA's approval an annual overall DBE percentage goal for their overall TVM activity. New Flyer of America submitted a TVM Certification with their proposal indicating that they have an approved program. New Flyer established an overall 4.20% DBE goal and is currently on FTA's list of eligible TVMs. In compliance with 49 CFR Part 26.49, TVMs report directly to FTA.

DETERMINATION OF SAFETY IMPACT

There will be anticipated safety improvements for operating these new battery electric buses in Metro's bus fleet. These buses will also incorporate the latest safety features and designs, including improved ADA amenities and boarding ramps. The batteries and high voltage powertrain equipment on these buses includes special safety provisions, and "locks out" employee access while they are energized. New buses also will provide a safer, cleaner environment for Metro patrons and employees.

FINANCIAL IMPACT

For FY18, there is \$5,172,680 programmed to cover expenses for purchasing these buses. Because this is a multi-year contract, the Cost Center Manager will be responsible for ensuring that future year funding is programmed.

Impact to Budget

There is no anticipated impact to the FY18 budget for this action. Future funding for this procurement may come from various eligible available federal, state and local funding sources including financing options and grants that are eligible for bus capital projects. Staff will pursue all sources of funding maximizing their use for these activities.

ALTERNATIVES CONSIDERED

Staff considered awarding a separate new contract for five vehicles, one on-route charger, and one shop charger. This option was not selected as it would unnecessarily duplicate the administrative work for Metro and New Flyer for the exact same vehicle and charging equipment as on Contract No. OP28367-001, Part D.

NEXT STEPS

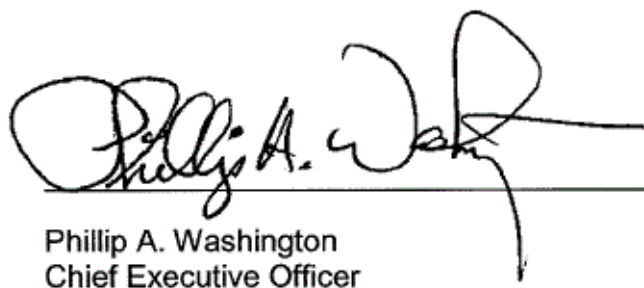
Upon Board approval, staff will execute the Contract Modification with New Flyer.

ATTACHMENTS

- Attachment A - Procurement Summary
- Attachment B - Contract Modification/Change Order Log
- Attachment C - DEOD Summary
- Attachment D - Funding and Expenditure Plan

Prepared by: Steve Schupak, Sr. Manager, Project Control (213) 617-6294
Jesus Montes, Sr. Executive Officer, Vehicle Acquisition (213) 418-3277

Reviewed by: James T. Gallagher, Chief Operations Officer (213) 418-3108
Debra Avila, Chief Vendor/Contract Management Officer (213) 418-3051



Phillip A. Washington
Chief Executive Officer

PROCUREMENT SUMMARY

PROCUREMENT OF FIVE 60' ARTICULATED ZERO EMISSION
TRANSIT BUSES/OP28367-001

1.	Contract Number: OP28367-001		
2.	Contractor: New Flyer America Inc.		
3.	Mod. Work Description: Modify quantities of base buy vehicles and charging equipment		
4.	Contract Work Description: Manufacture and delivery of 35 60' foot zero emission buses		
5.	The following data is current as of:		
6.	Contract Completion Status		Financial Status
	Contract Awarded:	07/27/17	Contract Award Amount: \$60,050,097 (\$51,211,033 for vehicles, chargers, taxes & delivery plus NTE \$8,839,064 for optional configurations)
	Notice to Proceed (NTP):	11/15/17	Total of Modifications Approved: 0
	Original Complete Date:	09/16/19	Pending Modifications (including this action): \$7,901,862 (\$7,371,287 vehicles & chargers + \$530,575 spare parts & training)
	Current Est. Complete Date:	09/16/19	Current Contract Value (with this action): \$67,951,959 (\$58,582,320 vehicles, chargers, taxes & delivery plus NTE \$9,369,639 optional configurations & spares)
7.	Contract Administrator: Elizabeth Hernandez		Telephone Number: (213) 922-7334
8.	Project Manager: Steven Schupak		Telephone Number: (213) 617-6294

A. Procurement Background

This Board Action is to approve Contract Modification No. 1 to increase the Contract quantities of the 60-foot Low Floor Zero Emission Transit Bus Contract for:

- 1) Base buy vehicles from 35 to 40;
- 2) On route/opportunity chargers from 7 to 8; and
- 3) Shop/division chargers from 1 to 2.

This change to the Contract supports Metro's bus fleet replacement plan for the manufacture and delivery of 60' zero emission buses from New Flyer of America Inc. The increase in vehicle and charger quantities for the base buy allows for award of vehicles approved by the FTA's LoNo Emission Deployment Program grant. Under the grant, LACMTA will receive \$4.275 million towards battery electric zero-emission buses and charging equipment to serve the Metro Orange Line rapid transit corridor.

This Contract Modification will be processed in accordance with Metro's Acquisition Policy and the contract type is a firm fixed price.

- On July 27, 2017, Contract No. OP28367-001 was awarded to New Flyer America Inc. for the manufacture and delivery of thirty-five (35) 60' zero emission transit buses in the amount of \$51,211,033, including charging equipment, taxes and delivery.
- An additional not-to-exceed amount of \$8,839,064 was awarded for optional vehicle features, spare parts, and training aids for a total combined contract amount not-to-exceed \$60,050,097.
- FTA awarded a grant to LACMTA under the LoNo Emission Deployment Program for the purchase of five (5) battery electric zero-emission buses and charging stations equipment to serve the Metro Orange Line.
- This Modification will increase the base buy from 35 to 40 vehicles, on-route opportunity chargers from 7 to 8, and shop/depot chargers from 1 to 2 for an increase in the firm fixed price amount for vehicles, charging equipment, taxes and delivery from \$51,211,033 to \$58,582,320
Due to the additional five vehicles, the not-to-exceed amount of \$8,839,064 for the optional vehicle features, spare parts, and training aids will increase to \$9,369,639 for a total combined contract amount of \$67,951,960.

(Refer to Attachment B – Contract Modification/Change Order Log)

B. Cost/Price Analysis

The recommended prices for the increase in quantities of the vehicles, on-route opportunity chargers; shop/depot chargers, and optional vehicle configuration items are the same as the Base prices defined in the existing Contract. These prices are fair and reasonable based upon adequate price competition evaluated during the solicitation phase for 60' ZE buses, and is consistent with the award to New Flyer America Inc. for Contract No. OP28367-001.

CONTRACT MODIFICATION/CHANGE ORDER LOG

PROCUREMENT OF FIVE 60' ARTICULATED ZERO EMISSION
TRANSIT BUSES/OP28367-001

Mod. no.	Description	Status (approved or pending)	Date	\$ Amount
1	Increase: 1) Base buy from 35 to 40 vehicles; 2) On Route/Opportunity Chargers from 7 to 8; and 3) Shop/ Division chargers from 1 to 2, including applicable delivery charges and taxes	Pending	3/1/17	\$ 7,901,862
	Modification Total:			\$ 7,901,862
	Original Contract:			\$60,050,097
	Total:			\$67,951,959

DEOD SUMMARY

PROCUREMENT OF FIVE 60' ARTICULATED ZERO EMISSION
TRANSIT BUSES/OP28367-001

A. Small Business Participation

The Diversity and Economic Opportunity Department (DEOD) did not recommend a Disadvantaged Business Enterprise (DBE) participation goal for this rolling stock procurement. Transit Vehicle Manufacturers (TVMs), as a condition of authorization to bid or propose on FTA-assisted transit vehicle procurements, must certify that they have an FTA approved DBE overall goal methodology in compliance with 49 Code of Federal Regulations (CFR) Part 26.49(a)(1). New Flyer of America Inc. submitted a TVM Certification with their proposal, and is currently on FTA's list of eligible TVMs. In compliance with 49 CFR Part 26.49, TVMs report directly to FTA.

B. Living Wage and Service Contract Worker Retention Policy Applicability

The Living Wage and Service Contract Worker Retention Policy is not applicable to this Contract.

C. Prevailing Wage Applicability

Prevailing wage is not applicable to this Contract.

D. Local Employment Plan Program (LEP)

Local Employment Plan Program is applicable on this contract. Staff will be monitoring progress on all LEP commitments, including the numbers of new FTE hires, verification of hourly pay-rates and the 40% commitment to hire disadvantaged workers.

ATTACHMENT D

**Forty 60' ZE Bus Contract / CP 201073
Funding and Expenditure Plan**

	FY18	FY19	FY20	Total LOP	% of Total
Uses of Funds					
Bus Acquisition	1,700,000	46,340,000	6,038,644	54,078,644	68%
Bus Charging System Installation, Power Drops, Site Prep	2,808,000	5,000,000		7,808,000	10%
Professional Services	50,000	250,000	100,000	400,000	0%
Labor	574,680	986,950	604,297	2,165,927	3%
Travel/Admin	40,000	260,000	200,000	500,000	1%
Spare Parts, Training, Services Manuals, Charging Equipment		8,300,000	5,573,638	13,873,638	17%
Contingency			1,177,073	1,177,073	1%
Total Project Costs	5,172,680	61,136,950	13,693,652	80,003,282	100%

	FY18	FY19	FY20	Total LOP	% of Total
Sources of Funds					
Federal					
FTA LoNo Grant	4,275,000			4,275,000	5%
Local					
TDA4/PC40	897,680	61,136,950	5,797,652	67,832,282	85%
Measure R 35			7,896,000	7,896,000	10%
Total Project Funding	5,172,680	61,136,950	13,693,652	80,003,282	100%