



Board Report

File #: 2020-0061, File Type: Contract

Agenda Number: 30.

CONSTRUCTION COMMITTEE  
AUGUST 20, 2020

**SUBJECT: EXECUTE CONTRACT MODIFICATION FOR EIGHT (8) DEPOT CHARGERS FOR ORANGE LINE ELECTRIC BUS CHARGING STATIONS, INCREASE CONTRACT MODIFICATION AUTHORITY AND STAFF DELEGATION AUTHORITY**

**ACTION: APPROVE RECOMMENDATIONS**

**RECOMMENDATION**

AUTHORIZE the Chief Executive Officer to:

- A. EXECUTE Modification No. 14 to Contract No. OP28367-001, Part D, awarded to New Flyer of America, to add eight (8) additional Depot Chargers for the Metro Orange Line buses and charging infrastructure at Firm Fixed price of \$1,138,133, increasing the Contract Value from \$73,289,973 to \$74,428,108.
- B. INCREASE the Contract Modification Authority (CMA) from 10% to 15% of the total base and option contract values to \$10,113,208 for Contract No. OP28367-001 Part D with New Flyer of America, Inc.
- C. INCREASE the Contract Modification Authority amount from 10% to 15% of the total base and option of contract values to \$11,795,724 for Contract OP28367-002, Part C, with BYD Coach & Bus, LLC.
- D. INCREASE staff delegation authority with El Dorado National (California), Inc. ("ENC") for future contract modifications for Contract No. OP28367-000, Part A, to a not to exceed amount of \$1,000,000 for each contract modification action.
- E. INCREASE staff delegation authority with New Flyer of America for future contract modifications for Contract No. OP28367-003, Part B, to a not to exceed amount of \$1,000,000 for each contract modification action.
- F. INCREASE staff delegation authority with BYD Coach & Bus, LLC for future contract modifications for Contract No. OP28367-002, Part C, to a not to exceed amount of \$1,000,000 for each contract modification action.

**ISSUE**

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Following contract award of Metro's Zero Emission Buses (ZEB) program there have been lessons learned regarding operational efficiencies and advances in vehicle and charging equipment technologies. Staff's recommendations address the need to respond to the rapid pace of potential changes necessary to operate ZEBs efficiently as changes in technology occur. For example, Metro has adopted the same depot charging solution for both ZEB contractors New Flyer and BYD, which was not available at time of award. This offers the same benefits as the standardization of the on-route charging. Further, the onset of COVID-19 has necessitated changes to Metro's operating services.

Recommendation A will allow for operational efficiencies to be realized. Currently, only two (2) of the ten (10) charging locations at Division 8 are equipped with chargers. Approval of Recommendation A will permit the remaining charging locations to be equipped with chargers.

Recommendation B and C will allow Metro and the Contractor to negotiate future change orders in a timely manner to ensure that the maximum cost and schedule benefits can be realized. This increase in Contract Modification Authority (CMA) is also necessary to address the rapidly evolving technologies in Zero Emission Buses (ZEB) and infrastructure.

Additionally, this recommendation will allow for Metro to quickly execute any pilot technical solutions in response to COVID-19. Recommendations D, E, and F are being requested to address the expectation that those contracts will have similar constraints. Project Management will manage all respective CMA within the previously approved Life of Project Budgets for the affected projects. The CMA increases requested by this action do not include the value of the Options exercised and approved by the Board, however it is part of the total percentage of CMA requested.

Recommendations D, E, and F will allow Metro and the Contractor to negotiate future change orders in a timely manner to ensure that the maximum cost and schedule benefits are realized. The request for an increase in staff delegation authority from \$500,000 to \$1,000,000 for individual contract changes is consistent with Board authorizations for other Rolling Stock programs, such as for the light rail vehicle Contracts P3010 and P2550, and 60-foot New Flyer Electric Buses under Contract OP28367-001, Part D.

## **BACKGROUND**

In April 2016 Metro's Board of Directors authorized staff to solicit a procurement for a combination of up to 1000 40-foot and 60-foot CNG or Zero Emission Buses. In July 2017 the Board Authorized five Contracts for 295 CNG Buses and 100 Zero Emission Buses of various sizes, totaling \$379,381,178. At the time of Base Contract award, it was not known what quantity or combination of Buses staff would recommend for subsequent Option vehicle purchases, therefore CMA could not be adequately defined. In September 2019 the Board further authorized the exercise of 259 CNG buses and 40 Zero Emission Buses totaling \$301,061,732. This Board action requests CMA on the total combination of the Base and Option Contract values awarded.

## **DISCUSSION**

Approval of Recommendation B, C, D, E and F increases the Contract Modification Authority which

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allows for Metro staff to address unforeseen changes to be successfully negotiated and addressed with Bus Manufacturers in an expedited manner thus minimizing impact to the project schedule. Additionally, this will allow for Metro to quickly execute any pilot technical solutions in response to COVID-19.

### **DETERMINATION OF SAFETY IMPACT**

Recommendations B, C, D, E and F will allow Metro to quickly negotiate and execute any modifications needed in response to COVID-19.

### **FINANCIAL IMPACT**

Budget for this action is included in the Life of Project (LOP) budgets of Capital project(s) 201057 - El Dorado 40 Foot CNG Buses, 201073 - New Flyer 60 Foot Zero Emission Buses, 201076 - New Flyer 60 Foot CNG Buses, and 201077 - BYD 40 Foot Zero Emission Buses. Subject to board approval, the FY21 budget will include \$208 million for bus acquisitions, charging infrastructure purchases, and installation.

Because the respective projects require multi-year contracts, the Cost Center Manager, and Project Manager will be responsible for future fiscal year budgeting.

#### **Impact to Budget**

The combined funding for these projects include Federal, State and Local sources including Green Funds. Additionally, staff will continue to pursue all additional grant and rebate opportunities as they materialize. This will ensure that the Bus Acquisition and Electrification Program remain within the Board adopted LOP budgets.

### **IMPLEMENTATION OF STRATEGIC PLAN GOALS**

This item supports the following Strategic Goals 1) Provide high-quality mobility options that enable people to spend less time traveling and 5) Provide responsive, accountable, and trustworthy governance within the Metro organization.

### **ALTERNATIVES CONSIDERED**

Staff considered remaining with the limited number of chargers. This alternative was not selected as it lessens Metro's ability to charge the vehicles at Division 8 in a timely manner and raise maintenance and operational costs of the electric bus deployments.

### **NEXT STEPS**

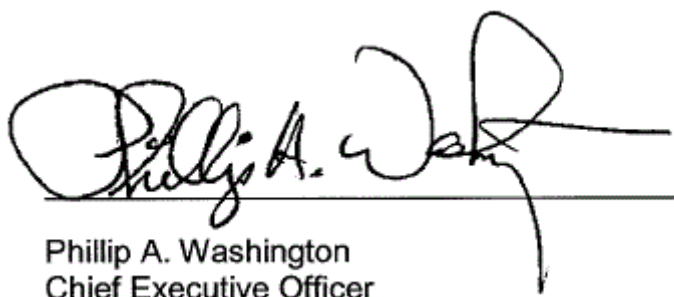
Upon Board approval, staff will execute the Contract Modification with New Flyer of America, and staff will negotiate and execute within staff authority future contract modifications.

**ATTACHMENTS**

- Attachment A - OP28367-001 New Flyer of America, Inc. Procurement Summary
- Attachment B - OP28367-001 New Flyer of America, Inc. Contract Modification Log
- Attachment C -OP28367-002 BYD Coach & Bus, LLC Procurement Summary
- Attachment D - OP28367-002 BYD Coach & Bus, LLC Contract Modification Log
- Attachment E - OP28367-000 EIDorado National (California), Inc. Procurement Summary
- Attachment F - OP28367-000 EIDorado National (California), Inc. Contract Modification Log
- Attachment G - OP28367-003 New Flyer of America, Inc. Procurement Summary
- Attachment H - OP28367-003 New Flyer of America, Inc. Contract Modification Log

Prepared by: Steve Schupak, Electric Vehicle Program Manager (213) 617-6294

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



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Phillip A. Washington  
Chief Executive Officer

**DEOD SUMMARY****NEW FLYER OF AMERICA, INC. - 60' LOW FLOOR ZERO EMISSION BUSES/  
OP28367-001****A. Small Business Participation**

New Flyer of America, Inc., a Transit Vehicle Manufacturer (TVM), is on the Federal Transit Administration's (FTA) list of eligible TVMs. New Flyer of America, Inc. reported that it submitted its overall Disadvantaged Business Enterprise (DBE) goal of 3.50% to FTA for FY20, in compliance with 49 Code of Federal Regulations (CFR) Section 26.49(a)(1). TVMs submit overall DBE goals and report participation directly to FTA annually.

**B. Living Wage and Service Contract Worker Retention Policy Applicability**

A review of the current service contract indicates that the Living Wage and Service Contract Worker Retention Policy (LW/SCWRP) was not applicable at the time of award. Therefore, the LW/SCWRP is not applicable to this modification.

**C. Prevailing Wage Applicability**

Prevailing Wage is not applicable to this modification.

**D. Project Labor Agreement/Construction Careers Policy**

Project Labor Agreement/Construction Careers Policy is not applicable to this Contract. Project Labor Agreement/Construction Careers Policy is applicable only to construction contracts that have a construction contract value in excess of \$2.5 million.

**E. Local Employment Plan**

Local Employment Plan Program is applicable on this contract. Staff will monitor progress on all LEP commitments, including the contractual commitments in creating employment opportunities in the State of California and the 40% commitment to hire disadvantaged workers.

## PROCUREMENT SUMMARY

NEW FLYER OF AMERICA, INC. - 60' LOW FLOOR ZERO EMISSION BUSES/  
OP28367-001

1.	<b>Contract Number:</b> OP28367-001		
2.	<b>Contractor:</b> New Flyer of America, Inc. (NFA)		
3.	<b>Mod. Work Description:</b> Procure 8 additional units of depot charging equipment; Increase Contract Modification Authority		
4.	<b>Contract Work Description:</b> Procure 60' Low-Floor ZE transit buses		
5.	<b>The following data is current as of:</b> 07/24/20		
6.	<b>Contract Completion Status</b>		<b>Financial Status</b>
	<b>Contract Awarded:</b>	07/27/17	<b>Contract Award Amount:</b> \$60,050,097
	<b>Notice to Proceed (NTP):</b>	11/15/17	<b>Total of Modifications Approved:</b> \$13,239,876
	<b>Original Complete Date:</b>	09/16/19	<b>Pending Modifications (including this action):</b> \$1,138,133
	<b>Current Est. Complete Date:</b>	11/30/20	<b>Current Contract Value (with this action):</b> \$74,428,106
7.	<b>Contract Administrator:</b> Elizabeth Hernandez		<b>Telephone Number:</b> (213) 922-7334
8.	<b>Project Manager:</b> Steve Schupak		<b>Telephone Number:</b> (213) 922-6652

**A. Procurement Background**

1. This Board Action is to approve Contract Modification No. 14 for Contract OP28367-001 issued in support of Metro's bus fleet electrification program and replacement plan for the manufacture and delivery of 40 units of 60' zero emission buses from New Flyer of America Inc. This Modification is to procure 8 additional units of depot charging equipment for the G (Orange) Line in the amount of \$1,138,133, including tax.

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

2. Further, this Board Action is to approve an increase in the Contract Modification Authority from 10% to 15% (\$10,113.208) to procure 60' ZE buses from New Flyer of America, Inc.

On July 27, 2017, the Board awarded Contract No.: OP28367-001 New Flyer of America, Inc. for the manufacture and delivery of the 35 units of 60' ZE transit buses in the Not-To-Exceed amount of \$60,050,097. On March 22, 2018, the Board

approved the exercise of 5 option buses for a firm fixed price of \$7,371,287. Contract Modification Nos. 1 through 13 were issued within staff delegated authority.

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

**B. Cost/Price Analysis**

The recommended price of \$1,138,133, including tax, has been determined to be fair and reasonable based upon MAS audit findings, an independent cost estimate, cost analysis, technical evaluation, fact finding, and negotiations.

<b>Proposal Amount</b>	<b>Metro ICE</b>	<b>Negotiated Amount</b>
\$1,344,012	\$1,433,771	\$1,138,133

The recommendation for an increase in the Contract Modification Authority from 10% to 15% (\$10,113,208) ensures that the maximum cost and schedule benefits are realized. Additionally, this will allow for Metro to quickly execute any technological advancements and solutions in response to COVID-19.

## CONTRACT MODIFICATION/CHANGE ORDER LOG

NEW FLYER OF AMERICA, INC. - 60' LOW FLOOR ZERO EMISSION BUSES/  
OP28367-001

Mod. no.	Description	Status (approved or pending)	Date	\$ Amount
1	Add 5 option buses to the base buy from 35 to 40 vehicles; and increase opportunity and depot charging equipment	Approved	03/22/18	\$7,371,287
2	Pilot buses battery capacity upgrade from 250kWh to 320 kWh	Approved	08/30/18	\$226,384
3	Production buses battery upgrade from 250kWh to 320 kWh	Approved	10/25/18	\$2,792,074
4	Optional Bus Configurations	Approved	11/13/18	\$485,933
5	Update Special Provision-38 Terms	Approved	01/09/19	\$0
6	Training Aids and E-Learning Modules	Approved	08/13/19	\$1,514,419
7	Modify bus configurations	Approved	10/23/19	(\$30,107)
8	Modify project delivery terms	Approved	10/29/19	\$0
9	Modify contract payment terms	Approved	02/25/20	\$0
10	Depot charging equipment changes	Approved	02/27/20	\$26,017
11	Upgrade of 4 on-route charging equipment	Approved	06/1/20	\$ 853,869
12	Update changes on Pricing Forms	Approved	06/23/20	\$0
13	Modify project delivery terms	Approved	07/13/20	\$0
14	Procure 8 additional units of depot charging equipment	Pending	TBD	\$1,138,133
	<b>Modification Total:</b>			<b>\$14,378,009</b>
	<b>Original Contract:</b>			<b>\$60,050,097</b>
	<b>Total:</b>			<b>\$74,428,106</b>



**DEOD SUMMARY****BYD COACH & BUS, LLC - SIXTY 40' ZERO EMISSION TRANSIT BUSES/  
OP28367-002****A. Small Business Participation**

BYD Coach and Bus, LLC, a Transit Vehicle Manufacturer (TVM), is on the Federal Transit Administration's (FTA) list of eligible TVMs. BYD Coach and Bus, LLC reported that it submitted its overall Disadvantaged Business Enterprise (DBE) goal of 3% to FTA for FY20, in compliance with 49 Code of Federal Regulations (CFR) Section 26.49(a)(1). TVMs submit overall DBE goals and report participation directly to FTA annually.

**B. Living Wage and Service Contract Worker Retention Policy Applicability**

A review of the current service contract indicates that the Living Wage and Service Contract Worker Retention Policy (LW/SCWRP) was not applicable at the time of award. Therefore, the LW/SCWRP is not applicable to this modification.

**C. Prevailing Wage Applicability**

Prevailing Wage is not applicable to this modification.

**D. Project Labor Agreement/Construction Careers Policy**

Project Labor Agreement/Construction Careers Policy is not applicable to this Contract. Project Labor Agreement/Construction Careers Policy is applicable only to construction contracts that have a construction contract value in excess of \$2.5 million.

**E. Local Employment Plan**

Local Employment Plan Program is applicable on this contract. Staff will monitor progress on all LEP commitments, including the contractual commitments in creating employment opportunities in the State of California and the 10% commitment to hire disadvantaged workers.

## PROCUREMENT SUMMARY

**BYD COACH & BUS, LLC - SIXTY 40' ZERO EMISSION TRANSIT BUSES/  
OP28367-002**

1.	<b>Contract Number:</b> OP28367-002		
2.	<b>Contractor:</b> BYD Coach & Bus LLC		
3.	<b>Mod. Work Description:</b> Increase Contract Modification Authority		
4.	<b>Contract Work Description:</b> Procure 40' ZE transit buses		
5.	<b>The following data is current as of:</b> 07/16/20		
6.	<b>Contract Completion Status</b>		<b>Financial Status</b>
	<b>Contract Awarded:</b>	07/27/17	<b>Contract Award Amount:</b> \$47,774,723
	<b>Notice to Proceed (NTP):</b>	11/15/17	<b>Total of Modifications Approved:</b> \$(146,930)
	<b>Original Complete Date:</b>	8/16/19	<b>Pending Modifications (including this action):</b> \$30,863,440
	<b>Current Est. Complete Date:</b>	11/01/21	<b>Current Contract Value (with this action):</b> \$78,491,233
7.	<b>Contract Administrator:</b> Elizabeth Hernandez		<b>Telephone Number:</b> (213) 922-7334
8.	<b>Project Manager:</b> Julio Rodriguez		<b>Telephone Number:</b> (213) 922-6603

**A. Procurement Background**

This Board Action is to approve an increase in the Contract Modification Authority from 10% to 15% (\$11,795,724) for Contract OP28367-002 to procure 40' ZE buses from BYD Coach & Bus, LLC. and staff delegated authority to negotiate and execute future contract modifications in the not-to-exceed amount of \$1,000,000.

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

On July 27, 2017, the Board awarded Contract No.: OP28367-002 to BYD Coach & Bus, LLC. for the manufacture and delivery of the 60 units of 40' ZE transit buses in the Not-To-Exceed amount of \$47,774,723. On September 19, 2019, the Board authorized the exercise of 40 option buses in the amount of \$30,863,440.

Contract Modification Nos. 1 through 4 were issued with staff delegated authority.

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

## **B. Cost/Price Analysis**

The recommendation to increase the CMA from 10% to 15% and for staff delegated authority to negotiate and execute future change orders in the not-to-exceed amount of \$1,000,000 for each contract modification action ensure that the maximum cost and schedule benefits are realized. Additionally, this will allow for Metro to quickly execute any technological advancements and solutions in response to COVID-19. The recommended option was determined to be fair and reasonable based on cost analysis at the time of the original contract award.

## CONTRACT MODIFICATION/CHANGE ORDER LOG

BYD COACH &amp; BUS, LLC - SIXTY 40' ZE TRANSIT BUS/OP28367-002

<b>Mod. no.</b>	<b>Description</b>	<b>Status (approved or pending)</b>	<b>Date</b>	<b>\$ Amount</b>
1	Update Special Provision-38 Terms	Approved	01/09/19	<b>\$0</b>
2	Optional Bus Configuration	Approved	12/03/19	<b>\$326,780</b>
3	Modify project delivery terms	Approved	12/27/19	<b>\$0</b>
4	Modify bus configurations	Approved	04/16/20	<b>\$(473,710)</b>
	Exercise of Option	Pending	TBD	<b>\$30,863,440</b>
	<b>Modification Total:</b>			<b>\$30,716,510</b>
	<b>Original Contract:</b>			<b>\$47,774,723</b>
	<b>Total:</b>			<b>\$78,491,233</b>

**DEOD SUMMARY****EL DORADO NATIONAL CALIFORNIA, INC. - 40' LOW FLOOR CNG BUS/  
OP28367-000****A. Small Business Participation**

El Dorado National California, Inc., a Transit Vehicle Manufacturer (TVM), is on the Federal Transit Administration's (FTA) list of eligible TVMs. El Dorado National California, Inc. reported that it submitted its overall Disadvantaged Business Enterprise (DBE) goal of 3.72% FTA for FY20, in compliance with 49 Code of Federal Regulations (CFR) Section 26.49(a)(1). TVMs submit overall DBE goals and report participation directly to FTA annually.

**B. Living Wage and Service Contract Worker Retention Policy Applicability**

A review of the current service contract indicates that the Living Wage and Service Contract Worker Retention Policy (LW/SCWRP) was not applicable at the time of award. Therefore, the LW/SCWRP is not applicable to this modification.

**C. Prevailing Wage Applicability**

Prevailing Wage is not applicable to this modification.

**D. Project Labor Agreement/Construction Careers Policy**

Project Labor Agreement/Construction Careers Policy is not applicable to this Contract. Project Labor Agreement/Construction Careers Policy is applicable only to construction contracts that have a construction contract value in excess of \$2.5 million.

**E. Local Employment Plan**

Local Employment Plan Program is applicable on this contract. Staff will monitor progress on all LEP commitments, including the contractual commitments in creating employment opportunities in the State of California and the 10% commitment to hire disadvantaged workers.

## PROCUREMENT SUMMARY

EL DORADO NATIONAL CALIFORNIA, INC. - 40' LOW FLOOR CNG BUS/  
OP28367-000

1.	<b>Contract Number:</b> OP28367-000		
2.	<b>Contractor:</b> El Dorado National California, Inc. (ENC)		
3.	<b>Mod. Work Description:</b> Increase Contract Modification Authority		
4.	<b>Contract Work Description:</b> Procure 40' Low-Floor CNG transit buses		
5.	<b>The following data is current as of:</b> 07/16/20		
6.	<b>Contract Completion Status</b>		<b>Financial Status</b>
	<b>Contract Awarded:</b>	06/29/17	<b>Contract Award Amount:</b> \$203,567,748
	<b>Notice to Proceed (NTP):</b>	09/01/17	<b>Total of Modifications Approved:</b> \$190,105,203
	<b>Original Complete Date:</b>	11/29/19	<b>Pending Modifications (including this action):</b> 0
	<b>Current Est. Complete Date:</b>	10/31/21	<b>Current Contract Value (with this action):</b> \$393,672,951
7.	<b>Contract Administrator:</b> Elizabeth Hernandez		<b>Telephone Number:</b> (213) 922-7334
8.	<b>Project Manager:</b> Kwesi Annan		<b>Telephone Number:</b> (213) 922-5953

**A. Procurement Background**

This Board Action is to approve an increase in staff delegated authority to negotiate and execute future contract modifications in the not-to-exceed amount of \$1,000,000. for Contract OP28367-000 to procure 40' CNG buses from El Dorado National California, Inc. (ENC).

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

On June 29, 2017, the Board awarded Contract No.: OP28367-000 to El Dorado National California, Inc. (ENC) for the manufacture and delivery of the 295 units of 40' CNG transit buses base buy in the Not-To-Exceed amount of \$203,567,748. On September 26, 2019, the Board approved the exercise of the options for 259 buses for a firm fixed price of \$189,369,145. Contract Modification Nos. 1 through 13 were issued within staff delegated authority.

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

## **B. Cost/Price Analysis**

The recommendation for staff delegated authority to negotiate and execute future change orders in the not-to-exceed amount of \$1,000,000 for each contract modification action ensures that the maximum cost and schedule benefits are realized. Additionally, this will allow for Metro to quickly execute any technological advancements and solutions in response to COVID-19.

## CONTRACT MODIFICATION/CHANGE ORDER LOG

EL DORADO NATIONAL CALIFORNIA, INC. - 40' LOW FLOOR CNG BUS/  
OP28367-000

Mod. no.	Description	Status (approved or pending)	Date	\$ Amount
1	Exercise Optional Configuration Items - Special Tools and Diagnostic Test Equipment	Approved	11/06/17	\$1,722,225
2	Credit for modifications to vehicle configuration	Approved	12/03/17	(\$2,030,332.)
3	Credit for modifications to vehicle configuration	Approved	12/27/17	(\$67,666)
4	Conformed Technical Specifications	Approved	01/19/18	\$0
5	Upgrades on vehicle configuration	Approved	02/06/18	\$355,714
6	Modify fire suppression system	Approved	04/23/18	\$0
7	Modify bike rack configuration	Approved	10/03/18	(\$102,361)
8	Modify flooring configuration	Approved	10/26/18	\$98,972
9	Exercise Optional Configuration Training Aids Items	Approved	11/14/18	\$349,646
10	Modify Contract terms	Approved	01/09/19	\$0
11	Metro requested modifications	Approved	01/15/19	\$279,870
12	Conformed Technical Specifications	Approved	01/17/19	\$0
13	Exercise Optional Configuration Items	Approved	02/08/19	\$104,586
14	Exercise Option to procure 259 buses	Approved	09/20/19	\$189,369,145
15	Change Orders on the Option Buy	Approved	02/21/20	(\$26,779)
16	Ethernet Cabling Change Order	Approved	07/08/20	\$52,183
17	Modify Contract Term	Approved	07/09/20	\$0
	<b>Modification Total:</b>			<b>\$190,105,203</b>
	<b>Original Contract:</b>			<b>\$203,567,748</b>
	<b>Total:</b>			<b>\$393,672,951</b>



## DEOD SUMMARY

**SIXTY-FIVE 60' ARTICULATED CNG TRANSIT BUS / OP28367-003 (Group B)****A. Small Business Participation**

New Flyer of America, Inc., a Transit Vehicle Manufacturer (TVM), is on the Federal Transit Administration's (FTA) list of eligible TVMs. New Flyer of America, Inc. reported that it submitted its overall Disadvantaged Business Enterprise (DBE) goal of 3.50% to FTA for FY20, in compliance with 49 Code of Federal Regulations (CFR) Section 26.49(a)(1). TVMs submit overall DBE goals and report participation directly to FTA annually.

**B. Living Wage and Service Contract Worker Retention Policy Applicability**

A review of the current service contract indicates that the Living Wage and Service Contract Worker Retention Policy (LW/SCWRP) was not applicable at the time of award. Therefore, the LW/SCWRP is not applicable to this modification.

**C. Prevailing Wage Applicability**

Prevailing Wage is not applicable to this modification.

**D. Project Labor Agreement/Construction Careers Policy**

Project Labor Agreement/Construction Careers Policy is not applicable to this Contract. Project Labor Agreement/Construction Careers Policy is applicable only to construction contracts that have a construction contract value in excess of \$2.5 million.

**E. Local Employment Plan**

Local Employment Plan Program is applicable on this contract. Staff will monitor progress on all LEP commitments, including the contractual commitments in creating employment opportunities in the State of California and the 40% commitment to hire disadvantaged workers.

## PROCUREMENT SUMMARY

## SIXTY FIVE 60' ARTICULATED CNG TRANSIT BUS / OP28367-003 (Group B)

1.	<b>Contract Number:</b> OP28367-003		
2.	<b>Contractor:</b> New Flyer of America, Inc		
3.	<b>Mod. Work Description:</b> Increase Contract Modification Authority		
4.	<b>Contract Work Description:</b> Procure 60' Low-Floor CNG transit buses		
5.	<b>The following data is current as of:</b> 07/16/20		
6.	<b>Contract Completion Status</b>		<b>Financial Status</b>
	<b>Contract Awarded:</b>	07/27/2017	<b>Contract Award Amount:</b> \$67,688,610
	<b>Notice to Proceed (NTP):</b>	01/30/18	<b>Total of Modifications Approved:</b> \$74,210,127
	<b>Original Complete Date:</b>	03/30/20	<b>Pending Modifications (including this action):</b> \$1,109,757
	<b>Current Est. Complete Date:</b>	01/22/21	<b>Current Contract Value (with this action):</b> \$143,008,494
7.	<b>Contract Administrator:</b> Wayne Okubo		<b>Telephone Number:</b> (213) 922-7466
8.	<b>Project Manager:</b>		<b>Telephone Number:</b>

**A. Procurement Background**

This Board Action is to approve an increase in staff delegated authority to negotiate and execute future contract modifications in the not-to-exceed amount of \$1,000,000 for Contract OP28367-003 to procure 60' CNG buses from New Flyer of America, Inc.

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

On July 27, 2017, the Board awarded Contract No.: OP28367-003 to New Flyer of America, Inc for the manufacture and delivery of the 65 units of 60' CNG transit buses base buy in the Not-To-Exceed amount of \$67,688,610. On September 26, 2019, the Board approved the exercise of the options for 70 buses for a price not to exceed \$73,457,860.

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

## **B. Cost/Price Analysis**

The recommendation to increase the CMA from 10% to 15% and for staff delegated authority to negotiate and execute future change orders in the not-to-exceed amount of \$1,000,000 for each contract modification action ensures that the maximum cost and schedule benefits are realized. Additionally, this will allow for Metro to quickly execute any technological advancements and solutions in response to COVID-19. The recommended option was determined to be fair and reasonable based on cost analysis at the time of the original contract award.

## CONTRACT MODIFICATION/CHANGE ORDER LOG

## SIXTY FIVE 60' ARTICULATED CNG TRANSIT BUS / OP28367-003 (Group B)

<b>Mod. no.</b>	<b>Description</b>	<b>Status (approved or pending)</b>	<b>Date</b>	<b>\$ Amount</b>
1	Optional Vehicle Configurations	Approved	10/11/19	\$501,397
2	Optional Vehicle Configurations	Approved	10/11/19	\$224,499
3	Exercise Option for 70 Vehicles	Approved	11/21/19	\$73,457,860
4	Add Payment Discount Terms	Approved	1/24/20	\$ 0
5	Configuration Changes	Approved		\$26,371
6	Training Aids	Pending		\$707,965
7	Additional Configuration Changes	Pending		(\$4,748)
8	TAP Retrofit	Pending		\$22,965
9	Optional Special Tools	Pending		\$383,575
	<b>Modification Total:</b>			<b>\$75,319,884</b>
	<b>Original Contract:</b>			<b>\$67,688,610</b>
	<b>Total:</b>			<b>\$143,008,494</b>