File No. 120908

Committee Item No. 1
Board Item No. 11

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Budget and Finance Committee **Date** 09/26/2012

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Completed by: Victor Young **Date** September 21, 2012
Completed by: Victor Young **Date** 9-27-12

[Contract - New Flyer of America Inc. - Low Floor Diesel-Hybrid Buses - Not to Exceed $36,889,364]

Resolution approving a contract with New Flyer of America Inc., for the purchase of 45 40-foot low floor diesel-hybrid buses, and related tools, training and spare parts, through the Cooperative Purchasing Venture established by the State of Minnesota's Materials Management Division, in an amount not to exceed $36,889,364 and for a term not to exceed six years.

WHEREAS, Under Section 21.16 of the San Francisco Administrative Code, the San Francisco Municipal Transportation Agency (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), and allows 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, New Flyer of America Inc. was one of several companies that submitted proposals in response to the Minnesota Procurement on December 23, 2011; Minnesota accepted the proposal and issued Notification of Contract Award to New Flyer on or about February 3, 2012; and

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

WHEREAS, SFMTA solicited proposals from three companies that responded to the Minnesota procurement and were on the approved list of the CPV for Class 700 transit buses, but only New Flyer submitted a proposal to SFMTA; and

WHEREAS, SFMTA negotiated the contract with New Flyer to manufacture 45 40-foot low floor diesel-hybrid buses, and related tools, training and spare parts for a total cost of $36,889,364; a copy of the contract is on file with the Clerk of the Board of Supervisors in File No. 12-116, and is hereby declared to be a part of this motion as if set forth fully herein; and

WHEREAS, On September 4, 2012, the SFMTA Board of Directors adopted Resolution No. 12-116, in which the SFMTA Board found that it was in the best interests of the City that the SFMTA procure 45 40-foot low floor diesel-hybrid buses through the Minnesota CPV, and which further authorized the Director of Transportation to execute a contract with New Flyer of America Inc. for the purchase of 45 40-foot low floor diesel-hybrid buses, and related tools, training and spare parts, through the CPV, for an amount not to exceed $36,889,364 and for a term not to exceed six years; now therefore, be it

RESOLVED, That the Board of Supervisors approves the contract with New Flyer of America Inc. for the purchase of 45 40-foot low floor diesel-hybrid buses, and related tools,

training and spare parts, through the Cooperative Purchasing Agreement established by the State of Minnesota's Materials Management Division, in an amount not to exceed $36,889,364, and for a term not to exceed six years.

Item 1 File 12-0908	Department: San Francisco Municipal Transportation Agency (SFMTA)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution (File 12-0908) would authorize the SFMTA to execute a contract with New Flyer for the purchase of 45 40-foot low-floor diesel hybrid buses, as well as related tools, training, manuals, and spare parts, through the Minnesota Cooperative Purchasing Venture (CPV), for $36,889,364, and for a term not to exceed six years.

Key Points

- Currently, the SFMTA has 45 heavy-duty buses that are 13 years old, exceeding the minimum retirement age of 12 years, established by the Federal Transportation Agency (FTA). Based on a 2007 survey by the FTA, the average retirement age for these heavy-duty buses nationwide is 15.1 years. Under the proposed contract, New Flyer would develop a prototype for the new buses within 180 days (or 6 months) of the notice to proceed, and deliver the 45 new buses within 180 days (or 6 months) of SFMTA's approval of the prototype. The six-year contract term covers the warranty periods for the new buses.
- The total budget for the proposed contract with New Flyer is $36,889,364, which includes: (1) the cost of 45 new heavy-duty (Class 700) low-floor diesel-hybrid coaches; (2) tools and diagnostics to maintain the new vehicles; (3) training for staff to drive the new; (4) insurance and storage costs; and (5) an allowance for spare.

Fiscal Impacts

- The SFMTA's FY 2012-13 capital budget for this project, approved by the SFMTA Board of Directors, is $36,000,000, resulting in an $889,364 budget shortfall for the contract. The $36,000,000 approved budget is comprised of $29,880,000 in federal grants and $6,120,000 in funds from the Proposition K Sales Tax.
- The SFTMA will reduce the proposed contract's not-to-exceed amount for spare parts by $2,000,000, from $3,000,000 to $1,000,000 and reduce the training budget by $599,046, from $1,299,046 to $700,000, therefore reducing the contract total by $2,599,046 ($2,000,000 plus $599,046)., from $36,889,364 to $34,290,318.
- We recommend reducing the amount of the proposed contract between SFMTA and New Flyer by $2,599,046, from $36,889,364 to $34,290,318, consistent with the SFMTA's proposed contract expenditure reductions, noted above.

Recommendation

- Amend the proposed resolution to reduce the proposed contract amount by $2,599,046, from $36,889,364 to $34,290,318.
- Approve the proposed resolution as amended.

MANDATE STATEMENT/BACKGROUND

Mandate Statement

In accordance with Charter Section 9.118, any agreement (a) for more than $10,000,000, (b) that extends for longer than ten years, or (c) with an amendment of more than $500,000, is subject to Board of Supervisors approval.

Additionally, pursuant to San Francisco Administrative Code Section 21.16(b), the purchaser may utilize the competitive procurement process of any other public agency to make purchases of commodities for the use of the City under the terms established in that agency's competitive procurement process and as agreed upon by the City and the procuring agency, upon making a determination that (i) the other agency's procurement process was competitive or the result of a sole source award and (ii) the use of the other agency's procurement would be in the City's best interests.

Background

In 1985, the Federal Transit Administration (FTA) established minimum life requirements for transit buses and vans to ensure that taxpayers received the best return on public investments. The minimum life requirement for a heavy-duty, large bus, defined as a bus with a length of 35 to 48 feet and with 27 to 40 seats, was set at 12 years. According to a 2007 study performed by the FTA, the average national retirement age for these heavy-duty, large buses is 15.1 years. Currently, the San Francisco Municipal Transportation Agency (SFMTA) has 45 heavy-duty, large buses that are 13 years old. Therefore, the SFMTA is expecting to replace these 45 buses. According to the September 2012 report to the SFMTA Board of Directors, the SFMTA has been exploring procurement opportunities for city buses, and the procurement process through the Minnesota Competitive Purchasing Venture (CPV) proved to be the most efficient, both in time and cost.

The SFMTA Board of Directors report explains that in 2011, the State of Minnesota issued a request for proposal for 2012-13 Model Year transit buses, including low-floor diesel hybrid buses,on behalf of the members of the Minnesota Competitive Purchasing Venture (CPV). New Flyer Industries (New Flyer) was one of the companies that submitted a proposal in response to the Minnesota's Materials Management Division, and the New Flyer proposal was accepted by Minnesota's Materials Management Division. It was determined that SFMTA met the Minnesota State requirements to become a member of the Minnesota CPV and was authorized to do so by the SFMTA Board in March 2012. The SFMTA commenced negotiations on an agreement with New Flyer Industries to purchase 45 low-floor diesel hybrid buses through the Minnesota CPV.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution (File 12-0908) would authorize the SFMTA to execute a contract with New Flyer for the purchase of 45 40-foot low-floor diesel hybrid buses, as well as related tools, training, manuals, and spare parts, through the Minnesota Cooperative Purchasing Venture

(CPV), for a total amount of $36,889,364, and for a term not to exceed six years. The contract total includes a not-to-exceed $3,000,000 for spare parts.

Under the proposed contract, the contractor will deliver a prototype of the bus within 180 days of the notice to proceed. Once SFMTA has approved the prototype, the contractor has 180 days to deliver the 45 new buses. The term of the contract is for six years to cover the vehicle warranty periods.

FISCAL IMPACTS

The total budget for the proposed contract with New Flyer is $36,889,364. As noted in Table 1 below, this amount includes: (1) the cost of 45 new heavy-duty (Class 700) low-floor diesel-hybrid coaches; (2) tools and diagnostics to maintain the new vehicles; (3) training for staff to drive the new; (4) insurance and storage costs; and (5) an allowance for spare parts.

Table 1: Itemized Costs of New Flyer Contract

Item	Per Item Cost	Number	Total Cost
XDE40 (ISL/EV50) Hybrid Bus	$741,069	23	$ 17,044,584
XDE40 (ISB/BAE) Hybrid Bus	691,941	22	15,222,697
Subtotal for All Vehicles		45	$32,267,281
Tools and Diagnostics	NA	NA	278,037
Training	NA	NA	1,299,046
Fee for Insurance/Storage of Engines	1,000	45	45,000
Allowance for Spare Parts	NA	NA	3,000,000
Subtotal for Other Contract Costs			4,622,083
Contract Total			**$36,889,364**

The SFMTA's FY 2012-13 capital budget for this project, approved by the SFMTA Board of Directors, is $36,000,000, resulting in an $889,364 budget shortfall for the contract. The source of funds for the $36,000,000 budget is comprised of $29,880,000 in Federal grants and $6,120,000 in funds from the Proposition K Sales Tax.[1] According to Mr. Elson Hao, Principal Engineer, SFMTA, the SFTMA will reduce the not-to-exceed amount for spare parts by $2,000,000 from $3,000,000 to $1,000,000 and reduce the training budget by $599,046 from $1,299,046 to $700,000, reducing the contract total by $2,599,046[2], from $36,889,364 to $34,290,318.

The amount of the proposed contract between SFMTA and New Flyer should be reduced by $2,599,046, from $36,889,364 to $34,290,318, as noted above.

[1] Proposition K was passed by San Francisco voters in November 2003, allowing the half-cent transportation sales tax to be allocated to the Prop K Expenditure Plan. The Expenditure Plan does not provide guidance as to the allocation of those revenues over the 30-year period, but instead only stipulates eligible programs.
[2] $2,000,000 plus $599,046 equals $2,599,046.

RECOMMENDATION

Amend the proposed resolution to reduce the proposed contract amount by $2,599,046, from $36,889,364 to $34,290,318.

Approve the proposed resolution as amended.

Edwin M. Lee | Mayor

Tom Nolan | Chairman
Cheryl Brinkman | Vice-Chairman
Leona Bridges | Director
Malcolm Heinicke | Director
Jerry Lee | Director
Joél Ramos | Director
Cristina Rubke | Director

Edward D. Reiskin | Director of Transportation

September 10, 2012

The Honorable Members of the Board of Supervisors
City and County of San Francisco
1 Dr. Carlton Goodlett Place, Room 244
San Francisco, CA 94102

Subject: Request for Approval -- Contract with New Flyer of America for the Purchase of 45 40-foot Diesel-hybrid Buses

Honorable Members of the Board of Supervisors:

The San Francisco Municipal Transportation Agency (SFMTA) requests that the San Francisco Board of Supervisors approve a Contract between the City and County of San Francisco and New Flyer of America Inc. for the purchase of 45 40-foot diesel-hybrid buses, in an amount not to exceed $36,889,364 and for a term not to exceed six years.

The purpose of this project is to replace the 45 NABI diesel buses in SFMTA's current fleet that have reached the end of their useful life. The new buses will be purchased from New Flyer of America Inc. through the Minnesota Cooperative Purchasing Venture (CPV). Purchasing the buses through the Minnesota CPV enables the SFMTA to reduce the time it normally takes for a major bus procurement by approximately nine months.

Background

The SFMTA's fleet includes 45 Standard (40') buses manufactured by NABI that were delivered in 1999. These buses have reached the end of their service life and are ready to be retired from regular revenue service.

The SFMTA has been exploring alternative procurement avenues to reduce the time it takes to purchase replacement vehicles. Staff has determined that by purchasing replacement vehicles through the Minnesota CPV, it is possible to achieve this objective.

Minnesota's 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. 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, school districts, and other entities. The SFMTA is eligible to join the CPV under Section 471.59, subdivision 1. On March 6, 2012, the SFMTA Board of Directors adopted Resolution No. 12-029 which authorized the SFMTA to join the CPV.

In 2011, Minnesota's MMD issued a competitive request for proposals (RFP) 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 (FTA).

The specifications of the buses in the Minnesota Procurement are broad enough to allow the SFMTA to customize the vehicles to meet the needs of the SFMTA so long as SFMTA's requirements do not require cardinal changes to the design of the vehicles.

Funding for this project is provided by the FTA and Proposition K Sales Taxes.

Bid Process

SFMTA solicited proposals from three companies that were on the approved list of the CPV for Class 700 transit buses namely, Daimler Buses North America, Gillig Corporation, and New Flyer. Only New Flyer submitted a proposal to SFMTA. Daimler decided to stop manufacturing transit buses and Gillig Corporation declined to provide a proposal.

Description of Work

The negotiations with New Flyer resulted in various enhancements to the basic bus, including a Closed Circuit TV system identical to the one that SFMTA will be installing in its other revenue vehicles, the wheelchair securement layout, a "proof-of-payment button" to enable patrons to enter the bus from the rear door, a rubber guard on the bus frame near the rear wheel, color destination signs, conduit for the new radio system, metal hand grips, and the same Vapor door that is on the Orion hybrid buses.

The Contract also includes special tools and diagnostics equipment, training and an allowance for spare parts.

Alternatives Considered

SFMTA considered other alternatives, such as purchasing option vehicles from other transit authorities or purchasing vehicles through the regular RFP process. SFMTA deemed that purchasing the buses through the Minnesota CPV was the best alternative. Purchasing option vehicles from other transit authorities did not allow for the SFMTA to add the desirable features to the vehicles, and purchasing vehicles through the regular RFP process would take much longer than procuring them through the CPV.

Funding Impact

The total New Flyer contract is $36,889,364. With tax, warranty support, staff project support and required vehicle inspections, the total project cost is $42,354,582. See below for total project budget.

Total Project Budget

Category	Cost
New Flyer Contract Total	
Vehicles (45)	$32,267,281
Tools & Diagnostics	$278,037
Training	$1,299,046
Fee for insurance/storage of engines	$45,000
Allowance for Spare Parts	$3,000,000
Subtotal New Flyer Contract	**$36,889,364**
Other Associated Costs	
Tax (8.5%)	$3,135,596
Warranty support	$229,622
Project support (SFMTA staff, ODC)	$1,600,000
Vehicle Inspection at Plant (FTA Required)	$500,000
Subtotal Other Associated Costs	**$5,465,218**
Total Cost	**$42,354,582**

This project is included in the Fiscal Year 2013 Capital Budget. The current approved budget for this fleet procurement project is $36 million leaving a New Flyer contract shortfall of $889,364 and a total project shortfall of $6,354,582. The existing funding comes from FTA Section 5307 funds and Proposition K Sales Taxes.

Financial Plan

Project Funding Source	Amount
Federal Grant	$29,880,000
Proposition K	$6,120,000
Total Funding	**$36,000,000**

There are Proposition K Sales Taxes in place to partially certify the contract and begin the procurement process. FTA 5307 funds are anticipated to be in place by October 2013, during the life of this project.

Recently, the SFMTA was awarded a $15 million State of Good Repair Grant to support the replacement of vehicles, and some of these funds can be used to close the funding shortfall on this project. A local match must also be secured for this grant.

In the meantime, to close the $6.3 million project shortfall and address the timing of funding, various alternatives will be explored including reducing the overall cost of the project, managing cash flow through funding swaps, and use of the recently awarded State of Good Repair Grant.

By including only the line items listed below, SFMTA is within the allotted funds available at this time.

Category	Cost
New Flyer Contract Total	
Vehicles (45)	$32,267,281
Fee for insurance/storage of engines	$45,000
Subtotal New Flyer Contract	*$32,312,281*
Other Associated Costs	
Tax (8.5%)	$2,910,852
Vehicle Inspection at Plant (FTA Required)	$500,000
Subtotal of Other Costs	*$3,410,852*
TOTAL COST	**$35,723,133**

SFMTA believes it can significantly reduce the project shortfall between the $42 million total project cost and the $36 million available by using only $1 million of the contract parts allowance of $3 million, and reducing the training budget to $700,000. This will result in a projected revenue gap for the project of $3.5 million, down from the current $6.3 million.

SFMTA Board Action

On September 4, 2012, the SFMTA Board of Directors adopted Resolution No. 12-116, which authorized the Director of Transportation to execute the Contract with New Flyer of America in an amount not to exceed $36,889,364 and for a term not to exceed six years.

Recommendation

The SFMTA recommends that the San Francisco Board of Supervisors authorize the SFMTA to enter into a Contract with New Flyer of America Inc. for the purchase of 45 40-foot diesel-hybrid buses in an amount not to exceed $36,889,364 and for a term not to exceed six years.

Thank you for your consideration of this proposed agreement. Should you have any questions or require more information, please do not hesitate to contact me at any time.

Sincerely,

Edward D. Reiskin
Director of Transportation

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. 12-116

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 complied with the third party procurement requirements of the Federal Transit Administration; and

WHEREAS, New Flyer Industries Inc. was one of several companies that submitted proposals in response to the Minnesota Procurement on December 23, 2011; Minnesota accepted the proposal and issued Notification of Contract Award to New Flyer on or about February 3, 2012; 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 CPV; and

WHEREAS, SFMTA staff recommends using the CPV to purchase45 40-foot low floor diesel-hybrid buses from New Flyer Industries in order to expedite the procurement of buses for the Municipal Railway (Muni); and,

WHEREAS, These buses will replace Muni's fleet of 1999 NABI buses, which have reached the end of their useful life and are ready to be retired; and

WHEREAS, SFMTA staff has negotiated an agreement with New Flyer Industries for the purchase of 45 low floor diesel hybrid buses and related tools, training and spare parts; now, therefore be it

RESOLVED, That the SFMTA Board of Directors authorizes the Director of Transportation to execute a contract with New Flyer Industries Inc. for the purchase of 45 40-foot low floor diesel-hybrid buses, and related tools, training and spare parts, through the Cooperative Purchasing Venture with the State of Minnesota, for an amount not to exceed $36,889,364 and for a term not to exceed six years.

I certify that the foregoing resolution was adopted by the Municipal Transportation Agency Board of Directors at its meeting of September 4, 2012.

R. Boomer

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

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 Agreement is made 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.

D. Under the authority of Administrative Code Section 21.16, SFMTA now wishes to acquire 45 Buses from New Flyer under the terms and conditions contained in the Minnesota Procurement, as amended by the provisions of this Agreement.

E. CITY has requested various specification changes for the buses, and has negotiated with Contractor price increases for these items, as appropriate. Contractor has also agreed to additional terms and conditions as consideration for this Agreement.

1. Minnesota Procurement Terms and Conditions; Priority of Documents. The terms and conditions of the Minnesota Procurement, including the Contract Release, dated January 25, 2012, as amended on July 10, 2012, are incorporated by reference as though fully set forth, except those terms and conditions applicable solely to Minnesota and Minnesota agencies. The following documents, in order of preference, constitute the entire Contract between Contractor and the City:

1.1. This Agreement and any subsequent amendments to the Agreement.

1.2. The Contractor's Proposal to Minnesota, including all deviations to the Technical Specifications.

1.3. The Minnesota Procurement and Contract Release.

In the event of any conflict in language among the above documents the terms and conditions of this Agreement and any later executed documents shall prevail over conflicting terms and conditions contained in the earlier documents, in their original form or as amended.

2. Agreement. Under this Agreement, Contractor agrees to sell, and the City agrees to purchase, 45 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.

3. Insurance.

3.1. The Contractor shall maintain, at its own expense, throughout the term of this Agreement, insurance as follows:

(a) Workers' Compensation, including Employers' Liability coverage, with limits not less than $1,000,000 each accident, or as required by law in the jurisdiction in which the work is performed.

(b) Comprehensive or Commercial General Liability insurance with limits not less than $5,000,000 each occurrence combined single limit of Bodily Injury and Property Damage, including coverage's for Contractual Liability, Independent Contractor, Broad-form Property Damage, Products and Completed Operations.

(c) Comprehensive or Business Automobile (Transit Coach, Truck, and other vehicles included) Liability Insurance, with limits not less than $5,000,000 each occurrence combined single limit for Bodily Injury and Property Damage, including coverage's for owned, non-owned, and hired vehicles, as applicable.

(d) During the course of this Agreement, should any vehicles already accepted by City and in which title is vested in the City, be returned to Contractor for any reason, Contractor shall maintain, with respect to such vehicles, Garagekeepers' Legal Liability Insurance with limits not less than 100 percent of the value of City vehicles and equipment in Contractor's care, custody, or control, including coverage's for fire, theft, riot and civil commotion, vandalism or malicious mischief, and collision; all-risk transportation insurance for the full value of all City-owned coaches in transit between Contractor and City premises; and any loss payable to the City as its interest may appear.

3.2. Comprehensive or Commercial General Liability and Comprehensive or Business Automobile policies shall be endorsed to provide the following:

(a) Name as Additional insured's the City and County of San Francisco, its Officers, Agents, Employees and Members of the Commissions;

(b) That such policies are primary to any other insurance available to the Additional Insured's, with respect to any claims arising out of this Agreement, and that such insurance applies separately to each insured against whom claim is made or suit is brought and that such coverage shall not exceed policy limits.

3.3. All policies shall be endorsed to provide: Thirty (30) days advance written notice to City will be provided if coverage is materially reduced or altered, and mailed to the following address:

City and County of San Francisco
Gary Chang, P.E.
Project Manager
Contract No. SFMTA-2013-08
Fleet Engineering Section
700 Pennsylvania Ave.
San Francisco, CA 94107

Before commencement of the term of this Contract, certificates of insurance, and copies of additional insurance endorsements, in form and with insurers acceptable to City, evidencing all required insurance, shall be furnished with complete copies of policies to City promptly upon request.

3.4. Should any of the required insurance be provided under a claims-made form, the Contractor shall maintain such coverage continuously throughout the term of this Contract and, without lapse, for a period of three years beyond the Contract expiration, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the Contract, such claims shall be covered by such claims-made policies.

3.5. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence limits specified above.

3.6. Should any required insurance lapse during the contract term, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Contract, effective as of the lapse date. If insurance is not reinstated, the City may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

4. Bonds

4.1. The Contractor shall maintain at its own expense, and furnish to City, corporate surety bonds, as follows:

(a) Performance Bond. Within 20 days following the receipt of a notice of tentative award of contract, the Contractor shall furnish to City a performance bond in the amount

of 20 percent of the total contract amount, to guarantee Contractor's faithful performance of all obligations of the contract. Upon delivery and acceptance by the City of 50 percent of the original contracted number of vehicles, the amount of the performance bond may be reduced to 65 percent of the original bond amount. Upon delivery and acceptance by the City of 75 percent of the original contracted number of vehicles, the amount of the performance bond may be reduced to 30 percent of the original bond amount. If the Contractor requests any further reduction in the amount of the performance bond, the request shall be subject to approval by SFMTA and the City's Risk Manager. One year after the City fully accepts the last bus, the City will release the obligations of the surety under the performance bond, provided that all contract deliverables have been performed and accepted and, if the City has so elected, a warranty bond meeting the requirements of Subsection 4.1(b) is in place. The original bond document(s) shall be retained by the City.

(b) Warranty Bond; Extension Option. Contractor shall provide a two-year warranty or guaranty bond in the amount of 10 percent of the Contract price covering all of Contractor's warranty obligations under the Contract, which bond shall become effective upon release of the Performance Bond required under Subsection 4.1(a) above. At the end of the first year of warranty coverage, the Contractor may request a reduction of coverage, which may be approved at the discretion of SFMTA and the City's Risk Manager. Additionally, at City's election, and subject to approval of the surety issuing the bond, Contractor shall provide for up to two one-year extensions or renewals of the warranty or guaranty bond at an amount approved by SFMTA and the City's Risk Manager. If the original surety declines to extend or renew the initial bond, Contractor shall in good faith try to obtain the required additional coverage from another surety and shall document to the City its efforts in this regard.

4.2. The corporate surety on these bonds must be legally authorized to engage in the business of furnishing surety bonds in the State of California. All sureties, bond coverage forms, and requests for changes to the bonding requirements must be approved by the City's Risk Manager.

4.3. During the period covered by the Contract, if the surety on these bonds shall, in the opinion of the City's Risk Manager, become insolvent or unable to pay promptly the amount of such bonds to the extent to which surety might be liable, the Contractor, within 30 days after notice given by the City to the Contractor, shall by supplemental bonds or otherwise substitute another and sufficient surety approved by the Risk Manager in place of the surety becoming insolvent or unable to pay. If the Contractor fails within such 30 day period to substitute another and sufficient surety, the Contractor shall, if the City so elects, be deemed to be in default in the performance of its obligations hereunder, and the City, in addition to any and all other remedies, may terminate the Contract or bring any proper suit or proceeding against the Contractor and the surety, or may deduct from any monies then due or which thereafter may become due to Contractor under the Contract the amount for which the surety, insolvent or unable to pay as aforesaid, is obligated on the bonds, and the monies so deducted shall be held by the City as collateral security for the performance of the conditions of the bonds.

4.4. In lieu of a surety bond as required above, Contractor may elect to furnish the City with a letter of credit in conformance with the requirements of Section 5.

5. Letter of Credit

5.1. Any and all letters of credit issued pursuant to this Agreement shall be obtained from a national or California bank with at least a Moody's A rating and having at least one branch office within the City and County of San Francisco. The letter of credit shall be a confirmed, clean irrevocable letter of credit in favor of the City and County of San Francisco, a municipal corporation. The letter of credit shall have an original term of one year, with

automatic extensions of the principal amount throughout the term of the contract, or until released by the City. The letter of credit shall provide that payment of the entire face amount of the letter of credit, or any portion thereof, shall be made to the City and County of San Francisco, upon presentation of a written demand to the bank signed by the General Manager on behalf of the City and County of San Francisco. The letter of credit shall constitute a security deposit guaranteeing all progress payments for which the letter of credit is issued.

5.2. If Contractor defaults with respect to any provision of this Agreement, City may, but shall not be required to, make its demand under the letter of credit for all or any portion thereof to compensate City for any loss of progress payments, which City may have incurred by reason of Contractor's default. City shall present its written demand to the bank for payment under the letter of credit only after City shall have made its demand for payment directly to Contractor, and five full business days have elapsed without Contractor having made payment to City or otherwise cured the default. City need not terminate this Agreement in order to receive compensation for its damages. If any portion of a letter of credit is so used or applied, Contractor, within 10 business days after written demand therefore, shall reinstate the letter of credit to its original amount; Contractor's failure to do so shall be a material breach of this Agreement.

5.3. Any letter of credit issued hereunder shall provide for 60 days notice by the bank to City in the event of non-extension of the letter of credit; in that event, Contractor shall replace the letter of credit at least 10 business days prior to its expiration. If Contractor fails to do so, City shall be entitled to present its written demand for payment of the entire face amount of the letter of credit. Any amounts so received by City shall be returned to Contractor upon replacement of the letter of credit.

5.4. If City receives any payments from the aforementioned bank under the letter of credit by reason of having made a wrongful or excessive demand for payment, City shall return to Contractor the amount by which City's total receipts from Contractor and from the bank under the letter of credit exceeds the amount to which City rightfully is entitled, together with interest thereon at the legal rate of interest, but City shall not otherwise be liable to Contractor for any damages or penalties.

6. Compensation; Payment

6.1. Amount. The City agrees to pay an amount not to exceed Thirty-Six Million, Eight Hundred Eighty-Nine Thousand, Three Hundred Sixty-Four Dollars ($36,889,364) (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.

6.2. Invoices. Contractor shall submit its invoices to the following address:

San Francisco Municipal Transportation Agency
Fleet Engineering Section
Attn: Gary Chang, P.E.
Project Manager
700 Pennsylvania Avenue
San Francisco, CA 94107

Each invoice shall include:

- Relevant milestones
- Contract order number;
- Quantity of items;
- Description of items;
- Unit price;
- Total invoice amount;
- Sales Tax (separately itemized)

6.3. Payments Terms.

(a) All payments shall be made as provided herein, less a retention of 2%.

(b) Subject to the provisions of Section 11.1, the City will make payments for buses at 98 percent of the unit price for each bus as itemized in the Price Schedule within 30 calendar days after acceptance of each bus and receipt of a proper invoice.

(c) The City will make payments for spare parts within 30 calendar days after completion of delivery of, and receipt of a proper invoice for, each lot of spare parts, as provided in Section 9.3.

(d) The City will make payments for special tools within 30 days after delivery and receipt of a proper invoice for each delivery of special tools.

(e) The City will make an advance payment for the Cummins engines no later than December 1, 2012, subject to receipt of FTA approval.

(f) The City will make a final payment for all retained funds within 60 calendar days after receipt of a final proper invoice and completion of all of the following:

(i) Delivery and acceptance of all Contract deliverables, including spare parts, special tools, manuals and other documentation, but not including training.

(ii) Receipt from Contractor of all certifications as required by law and/or regulations.

(iii) Completion of post-delivery audits required under the Contract.

7. Budget And Fiscal Provisions; Termination In The Event Of Non-Appropriation

This Agreement is subject to the budget and fiscal provisions of the City's Charter. Charges will accrue only after prior written authorization certified by the Controller, and the amount of City's obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not

appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. Contractor's assumption of risk of possible non-appropriation is part of the consideration for this Agreement.

THIS SECTION CONTROLS AGAINST ANY AND ALL OTHER PROVISIONS OF THE AGREEMENT.

8. Miscellaneous Provisions

8.1. City Business Tax. The San Francisco Business Tax Ordinance requires that firms located in San Francisco or doing business in San Francisco, except for non-profit and tax-exempt businesses, have a current Business Tax Registration Certificate. Contractor shall maintain said Certificate throughout the term of this Contract and pay timely any and all business taxes due to the City.

8.2. Disputes. For any dispute involving a question of fact that does not involve a claim for additional compensation, the aggrieved party shall furnish the other party with a notice of dispute within 15 business days of the determination of the dispute. The party receiving a notice of dispute shall submit a written reply within 14 business days of delivery of the notice. The notice and response shall contain the following: (a) a statement of the party's position and a summary of the arguments supporting that position, and (b) any evidence supporting the party's position.

Disputes arising in the performance of this Agreement which are not resolved by negotiation between the parties shall be decided in writing by the City's Project Manager. The Project Manager's decision shall be administratively final and conclusive unless within 10 days from the date of such decision, the Contractor mails or otherwise furnishes a written appeal to the Director of Transit, or his/her designee. In connection with such an appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position in order that a fair and impartial decision can be made by the Director. The decision of the Director shall be administratively final and conclusive; except if such decision is arbitrary, capricious or so erroneous as to evidence bad faith.

Pending final resolution of a properly filed dispute hereunder, the Contractor shall proceed diligently with the performance of its obligations under the Agreement in accordance with the written directions of the City's Project Manager.

Subject to exhaustion of applicable administrative remedies under this Disputes section, the parties may seek to have their disputes resolved by any court of competent jurisdiction within San Francisco. If agreed to by both parties, disputes may be resolved by a mutually agreed to alternative dispute resolution process.

8.3. Sunshine Ordinance. In accordance with S.F. Administrative Code Section 67.24(e), contractors' bids, responses to RFPs and all other records of communications between the City and persons or firms seeking contracts shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organizations net worth or other proprietary financial data submitted for qualification for a contract or other benefits until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

8.4. Nondiscrimination; Penalties

(a) Contractor Shall Not Discriminate. In the performance of this Agreement, Contractor agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee of, any City employee working with, or applicant for employment with Contractor, in any of Contractor's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Contractor.

(b) Non-Discrimination in Benefits. Contractor does not as of the date of this Agreement and will not during the terms of this Agreement, in any of its operations in San Francisco or where the work is being performed for the City or elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in section 1, 4-B. of Appendix D for 12B Provisions, 12B.2(b) of the San Francisco Administrative Code.

(c) Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as through fully set forth herein. Contractor shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Contractor understands that pursuant to Section 12B.2(h) (see Appendix D) of the San Francisco Administrative Code, a penalty of $50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against Contractor and/or deducted from any payments due Contractor.

8.5. Conflict of Interest. Through its execution of this Agreement, Contractor acknowledges that it is familiar with the provision of Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitutes a violation of said provisions and agrees that it will immediately notify the City if it becomes aware of any such fact during the term of this Agreement.

8.6. False Claims. Pursuant to San Francisco Administrative Code sections 6.80 to 6.83 and section 21.35, any contractor or subcontractor who submits a false claim shall be liable to the City for three times the amount of damages which the City sustains because of the false claim. A contractor or subcontractor who submits a false claim shall also be liable to the City for the costs, including attorneys' fees, of a civil action brought to recover any of those penalties or damages, and may be liable to the City for a civil penalty of up to $10,000 for each false claim. A contractor or subcontractor will be deemed to have submitted a false claim to the City if the contractor or subcontractor: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c)conspires to defraud the City by getting a false claim allowed or paid by

the City; (d)knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

8.7. Disallowance. If Contractor claims or receives payment from City for a service, reimbursement for which is later disallowed by the State of California or United States Government, Contractor shall promptly refund the disallowed amount to City upon City's request. At its option, City may offset the amount disallowed from any payment due or to become due to Contractor under this Agreement or any other Agreement.

8.8. Agreement Made in California; Venue. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.

8.9. Non-Waiver of Rights The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.

8.10. Independent Contractor; Payment of Taxes and Other Expenses

(a) Independent Contractor. Contractor or any agent or employee of Contractor shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested by City under this Agreement. Contractor or any agent or employee of Contractor shall not have employee status with City, nor be entitled to participate in any plans, arrangements, or distributions by City pertaining to or in connection with any retirement, health or other benefits that City may offer its employees. Contractor or any agent or employee of Contractor is liable for the acts and omissions of itself, its employees and its agents. Contractor shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Contractor's performing services and work, or any agent or employee of Contractor providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between City and Contractor or any agent or employee of Contractor.

Any terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Contractor's work only, and not as to the means by which such a result is obtained. City does not retain the right to control the means or the method by which Contractor performs work under this Agreement.

(b) Payment of Taxes and Other Expenses. Should City, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Division, or both, determine that Contractor is an employee for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Contractor which can be applied against this liability). City shall then forward those amounts to the relevant taxing authority. Should a relevant taxing authority determine a liability for past services performed by Contractor for City, upon notification of such fact by City, Contractor shall promptly remit such amount due or arrange with City to have the amount due

withheld from future payments to Contractor under this Agreement (again, offsetting any amounts already paid by Contractor which can be applied as a credit against such liability).

A determination of employment status pursuant to the preceding two paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement, Contractor shall not be considered an employee of City. Notwithstanding the foregoing, should any court, arbitrator, or administrative authority determine that Contractor is an employee for any other purpose, then Contractor agrees to a reduction in City's financial liability so that City's total expenses under this Agreement are not greater than they would have been had the court, arbitrator, or administrative authority determined that Contractor was not an employee.

8.11. Time. Time is of the essence in this Agreement.

8.12. Compliance with Laws. Consultant shall keep itself fully informed of the City's Charter, codes, ordinances and regulations of the City and of all state, and federal laws in any manner affecting the performance of this Agreement, and must at all times comply with such local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time.

9. Delivery Schedule

9.1. General. Contractor shall comply with the Delivery Schedule attached as Exhibit C.

9.2. Coach Delivery Procedure. Delivery shall be determined by signed receipt of the SFMTA Project Manager Representative at the point of delivery and may be preceded by a cursory inspection of the coach. Delivery of the coaches shall be F.O.B. point of delivery, freight pre-paid and allowed. Contractor shall ensure that all coaches are fully operable when they are delivered. The point of delivery shall be:

Standard Hybrid-Electric Diesel Coaches
SFMTA Woods Maintenance Facility 1095 Indiana Street San Francisco, California 94107

Drivers shall keep a complete and accurate maintenance log en route, which shall be delivered to the SFMTA Project Manager with the coach. The log shall show the driver's compliance with the tire manufacturer's highway operating procedures. If the coaches are towed, the rear axle shafts shall be removed during the towing and re-coupled by the Contractor after arrival at the point of delivery. Contractor shall deliver each coach with a full tank of fuel and fully cleaned (exterior, interior, underside, and topside) prior to presentation for inspection. If the coaches are towed from the Contractor's facility to SFMTA, highway-type tires shall be installed. Upon arrival at the SFMTA maintenance facility or within San Francisco, Contractor, at its expense, shall install city-type tires.

9.3. Spare Parts Delivery Procedure. Contractor shall divide delivery of spare parts into two lots, and a manifest shall accompany each delivery. Lot 1 shall be approximately 50 percent of the quantity of spare parts finally agreed to by the parties. Lot 2 shall be the remaining quantity of spare parts_. At the SFMTA's option, the lots may be split into more than two

deliveries. Delivery shall be determined by signed receipt of the SFMTA Project Manager at the point of delivery and may be preceded by a cursory inspection of the parts. Within 20 business days of delivery, City will notify Contractor whether there are any problems related to the delivery. The point of delivery shall be as stated above in Section 9.2, or as otherwise provided in writing by SFMTA. Delivery of spare parts shall be F.O.B. point of delivery, freight pre-paid and allowed.

9.4. Coach Delivery Schedule. The coaches and other items shall be delivered between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday. Contractor shall deliver a maximum of five coaches per week.

10. Project Planning, Scheduling and Control

10.1. Introduction. This Section specifies the requirements for project planning, scheduling and progress reporting to be performed by the Contractor in conjunction with the Contract work. Critical Path Method scheduling (CPM) shall be employed by the Contractor for planning, scheduling and reporting all work required by the Contract Documents.

10.2. Required Schedules.

(a) Baseline Schedule: The Baseline Schedule is the detailed schedule, in bar-chart format, prepared by the Contractor, indicating the Contractor's plan for executing the Contract work. Contractor shall develop the Baseline Schedule using Microsoft Project Software or approved equal. Contractor shall revise the Baseline Schedule as necessary to incorporate approved Contract modifications. The Contractor's performance or other avoidable delays shall not be considered justification for Baseline Schedule revision. The schedule documents, reports, lists, computer software with documentation and computer diskettes and e-mail files are required with each submittal. Contractor shall submit the Baseline Schedule as required in Exhibit C.

(b) Current Schedule: The Current Schedule is the updated logic network and supporting reports indicating actual progress to date and forecasted logic and progress for the remaining work. The update shall be, at a minimum, to the same level of detail as the Baseline Schedule.

(c) Supplemental Schedule(s): Supplemental Schedules are detailed schedules prepared by the Contractor, at the request of the SFMTA, to substantiate proposed Contractor changes that may have a schedule impact.

10.3. Modifications to the Schedule. When requested by the Engineer, the Contractor shall submit Supplemental Schedules to the Engineer to substantiate proposed Contract changes that may have an impact on the schedule. Contractor shall submit such schedules to the Engineer for review and approval within three working days from the request; otherwise, any proposed Contract change will not be considered by the City. On approval of a Contract modification by the City, the approved change will be incorporated in the Baseline Schedule during the monthly update process.

11. Acceptance of Buses (supplementing Section 78.d of the Minnesota RFP)

11.1. Conditional Acceptance. If a coach does not meet all requirements for final acceptance, SFMTA may, at its exclusive option, "conditionally accept" the bus and place it into revenue service, pending receipt of Contractor-furnished materials and/or labor necessary to effectuate corrective action for acceptance. For any conditionally accepted coach, the payment shall be reduced by an amount equal to three percent of the amount of the Bus, which amount

shall be withheld and paid after corrective action by the Contractor and final acceptance by SFMTA.

11.2. TitleError! Bookmark not defined.. At the time the Bus is delivered, Contractor shall provide to the SFMTA Project Manager adequate documents for securing the title for the Bus in the State of California. Upon conditional acceptance of each coach, title to each coach shall pass to the City, which title Contractor warrants shall be free and clear of all liens, mortgages and encumbrances, financing statements, security agreements, claims, and demands of any character.

12. Taxes and Other Governmental Charges

The City agrees to pay sales taxes levied by the State California on articles purchased by the City under this Agreement directly to the State. The City warrants that it is a public entity exempt from certain federal excise taxes and in connection therewith that it has obtained a federal excise tax exemption certificate. Contractor shall pay all other taxes, licenses, imposts, duties, and all other governmental charges of any type whatsoever.

13. Fleet Defects (superseding Section 4.1.6.1 of Contractor's Standard Warranty)

13.1. A fleet defect is defined as cumulative failures of any kind in the same components in the same or similar application where such items are covered by the warranty and such failures occur within the warranty period in at least 20 percent of all Buses delivered under this contract; provided, however, that components manufactured by the following companies shall not be subject to the fleet defect provisions unless a manufacturer agrees to honor the fleet defect provisions: Allison, Cummins, BAE, Thermo King. SFMTA shall have final approval of corrections or changes under these conditions.

13.2. The Contractor shall correct a fleet defect under the warranty provisions defined in its "Repair Procedures" (Section 4.12). Within 10 days of receipt of notification of a fleet defect, the Contractor shall provide SFMTA with a plan, acceptable to SFMTA, specifying how and when all coaches with defects shall be corrected. Said plan is subject to approval by SFMTA. In addition, after correcting such defects, the Contractor shall promptly undertake and complete a work program, acceptable to SFMTA, reasonably designed to prevent the occurrence of the same defect in all other coaches and spare parts purchased under this contract. Any proposed changes to a fleet defect work plan or program must be submitted to SFMTA for its approval.

14. Disadvantaged Business Enterprises (DBE) (superseding Section 72 of the Minnesota Procurement)

The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate

15. Training and Publications

15.1. Contractor shall provide training to SFMTA employees, as described in the attached Exhibit A-2. Training shall be scheduled as convenient to SFMTA and its employees.

Unless SFMTA and Contractor otherwise agree to a training schedule, Contractor shall provide training within 30 days of receipt of notice from SFMTA for particular training.

15.2. Contractor shall provide the Publications attached hereto as Exhibit D.

16. Term

The term of the Agreement shall commence on the date the City's Controller certifies the availability of funds for this Agreement and shall expire six years thereafter unless earlier terminated as otherwise provided herein.

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

CITY

San Francisco Municipal Transportation Agency

Edward D. Reiskin
Director of Transportation

Approved as to Form:

Dennis J. Herrera
City Attorney

By _____
Robin M. Reitzes
Deputy City Attorney

San Francisco Municipal Transportation Agency
Board of Directors
Resolution No. _____
Dated: _____
Attest:

_____
Secretary, SFMTA Board of Directors

Board of Supervisors
Resolution No. _____
Dated: _____
Attest:

_____
Clerk of the Board

CONTRACTOR

New Flyer of America

Name: Paul Smith

Title: Executive Vice President, Sales & Marketing

Name: Glenn Asham

Title: Chief Financial Officer

711 Kernaghan Avenue
Winnipeg, Manitoba, Canada R2C 3T4

City vendor number: 49642

Exhibits:

Exhibit A – Price Schedule
Exhibit A-1 – Special Tools

Exhibit A-2 – Training
Exhibit B – Proposal Changes
Exhibit C – Delivery Schedule
Exhibit D – Publications

EXHIBIT A

PRICE SCHEDULE

Item	Price per unit	Number of units	Total Price
XDE40 (ISL / EV50) hybrid coach	$741,069	23	$17,044,584
XDE40 (ISB / BAE) hybrid coach	$691,941	22	$15,222,697
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	45	$45,000
Allowance for Spare Parts	To be determined		$3,000,000
Contract Total			**$36,889,364**

EXHIBIT A-1

SPECIAL TOOLS

New Flyer Part #	Description	Category	Bid Qty	Unit	Total Unit Selling Price	Total Ext. Selling Price
122321	Twin Vision Elyses Software	Destination Sign - Twin Vision	1	Each	$1,175.76	$1,175.76
128951	6 to 9 pin adapter	ABS - Meritor Wabco	5	Each	$143.29	$716.46
6360894	USB Key	Destination Sign - Twin Vision	1	Each	$70.55	$70.55
6408310	Repair Kit - Disc Brakes & Calipers	Disc Brakes - MAN	2	Each	$2,879.42	$5,758.84
6362070	EMP Software (Download from Net)	Electric Fan Drive - EMP	5	Each	$0.00	$0.00
6352122	Dearborn DPA4+ USB Translator (Estimate)	Hybrid Drive - Allison	5	Each	$1,600.00	$8,000.00
6394788	Cummins ISL Full Service Tool Kit - 2010 Engines	Engine - Cummins	1	Each	$22,746.77	$22,746.77
6358421	Vapor Class System Diagnostic Interface Kit	Exit Doors - Vapor Class	5	Each	$97.07	$485.36
6359028	Vapor Class System Software	Exit Doors - Vapor Class	5	Each	$0.00	$0.00
6360381	Alignment Tool - Flex Connector	Engine - Cummins	2	Each	$649.61	$1,299.21
6355551	Amerex SafetyNet Software & Interface	Fire Suppression - Amerex	5	Each	$474.99	$2,374.95
52132	Amerex Discharge Hose Blowout Adapter	Fire Suppression - Amerex	5	Each	$86.56	$432.82
135582	Amerex Fire Alarm/Simulator Module	Fire Suppression - Amerex	5	Each	$259.25	$1,296.25

New Flyer Part #	Description	Category	Bid Qty	Unit	Total Unit Selling Price	Total Ext. Selling Price
6393934	Intelligaire III Diagnostic Software & Cables	HVAC - TK	5	Each	$1,324.05	$6,620.25
6393985	EMP Diagnostic Interface Kit	Electric Fan Drive - EMP	5	Each	$419.13	$2,095.64
6358069	Hybrid Drive Overhaul Tool Kit	Hybrid Drive - Allison	1	Each	$18,154.70	$18,154.70
6345918	Hybrid Drive Service Tool Kit	Hybrid Drive - Allison	1	Each	$11,605.13	$11,605.13
108658	Panasonic CF31 Laptop	Laptop PC	5	Each	$5,790.20	$28,951.00
159687	Vansco Software (Download from Net)	PLC - Vansco	5	Each	$0.00	$0.00
6314711	Torque Multiplier	Axles - MAN	2	Each	$1,451.69	$2,903.39
6334596	Wabco Software	ABS - Meritor Wabco	5	Each	$339.86	$1,699.31
6339620	Wabco Cable for 6334596 - Converter	ABS - Meritor Wabco	5	Each	$117.51	$587.53
6339621	Wabco Cable for 6334596 - 6 pin Deutch	ABS - Meritor Wabco	5	Each	$96.93	$484.65
6339622	Wabco Cable for 6334596 - Male/Female extension	ABS - Meritor Wabco	5	Each	$16.17	$80.87
6351820	DLA Adapter Kit	PLC - Vansco	5	Each	$534.97	$2,674.85
6399628	BAE IDS Software	Hybrid Propulsion - BAE	5	Each	$2,939.40	$14,697.00
6399629	KVASER Interface	Hybrid Propulsion - BAE	5	Each	$947.96	$4,739.82
6400474	BAE Overhaul Tool Kit	Hybrid Propulsion - BAE	1	Each	$35,102.40	$35,102.40
6400209	Cummins ISB Full Service Tool Kit - 2010 Engines	Engine - Cummins	1	Each	$23,225.08	$23,225.08

New Flyer Part #	Description	Category	Bid Qty	Unit	Total Unit Selling Price	Total Ext. Selling Price
6408306	Hub Repair Kit - MAN HY-1336 RR Axle	Axles - MAN	2	Each	$3,082.08	$6,164.16
6408307	ABS Sensor R&R Kit - MAN HY-1336 RR Axle	Axles - MAN	2	Each	$784.29	$1,568.59
6408309	Pinion Seal Repair Kit - MAN HY-1336 RR Axle	Axles - MAN	2	Each	$472.45	$944.90
6408308	Differential Repair Kit - MAN HY-1336 RR Axle	Axles - MAN	2	Each	$14,103.37	$28,206.74
6408311	Hub Repair Kit - MAN VOK-07 Frt Axle	Axles - MAN	2	Each	$11,625.80	$23,251.59
6408312	King Pin Press Kit - MAN VOK-07 Frt Axle	Axles - MAN	2	Each	$9,961.33	$19,922.66
Total					**$172,277.77**	**$278,037.21**

EXHIBIT A-2

TRAINING

Description	Spare ID	Bid Qty	Unit	Total Unit Selling Price	Total Ext. Selling Price
Operator Orientation - Training	9.1	32	Hour	$234.90	$7,516.80
Maintenance Orientation - Training	9.1	24	Hour	$234.90	$5,637.60
Vansco Multiplex - Training	9.1	144	Hour	$234.90	$33,825.60
Towing - Training	9.1	8	Hour	$234.90	$1,879.20
Doors - Training	9.1	32	Hour	$234.90	$7,516.80
Wheelchair Ramp - Training	9.1	32	Hour	$234.90	$7,516.80
Air System & ABS Brakes - Training	9.1	32	Hour	$234.90	$7,516.80
Steering & Suspension - Training	9.1	12	Hour	$234.90	$2,818.80
Axles & Disc Brakes - Training	9.1	96	Hour	$234.90	$22,550.40
Preventive Maintenance - Training	9.1	0	Hour	$234.90	$0.00
Body - Training	9.1	32	Hour	$234.90	$7,516.80
BAE Hybrid System Maintenance & Diagnostics - Training	9.1	288	Hour	$607.50	$174,960.00
ISB Engine Maintenance & Diagnostics - Training	9.1	144	Hour	$472.50	$68,040.00
EV50 Hybrid System Maintenance & Diagnostics - Training	9.1	288	Hour	$607.50	$174,960.00
ISL Engine Maintenance & Diagnostics - Training	9.1	144	Hour	$472.50	$68,040.00
A/C System Maintenance & Diagnostics - Training	9.1	0	Hour	$337.50	$0.00
Air/ABS Training Board - Mock-ups	9.1.2	1	Each	$27,675.00	$27,675.00
Exit Doors Training Aid - Mock-ups	9.1.2	1	Each	$38,475.00	$38,475.00
Dest. Sign Maintenance & Diagnostics - Training	9.1	16	Hour	$0.00	$0.00
Training Videos - Videos	9.1.8	10	Each	$40,500.00	$405,000.00

Description	Spare ID	Bid Qty	Unit	Total Unit Selling Price	Total Ext. Selling Price
eLearning Courses - Interactive Multimedia Training	9.1.10.1	5	Each	$47,250.00	$236,250.00
Laminated Training Schematics - Training Charts	9.1.9	1	Each	$1,350.00	$1,350.00
Total					**$1,299,045.60**

EXHIBIT B - Proposal Changes from Base Bus Price

Base Bus Price Change for Allison Propulsion System

Reference No.	Option No.	Option Group	Description	Total	Total Contract
1	420	Body A/P Before Paint	Add Docket 90 per 1-12	$853	$19,630
2	246	Air, Brake & Lev System	Add E-stroke per 5-3	$2,519	$57,944
3	205	Tires	Change to customer supplied LEASED tires, to be furnished by contractor per 5-7	-$2,861	-$65,804
4	219	Engine	Add engine probalizer per 6-3	$55	$1,269
5	246	Air, Brake & Lev System	Change air dryer to Graham White QBA60 per 5-5	$1,181	$27,172
6	246	Air, Brake & Lev System	Add Automatic traction control per 5-3	$84	$1,938
7	260	Battery Compartment	Change batteries to 8D (AGM/Deka) East Penn, 1350 CCA batteries.	$204	$4,685
8	260	Battery Compartment	Add Anderson jumpstart per 7-4. Remove per customer request	$0	$0
9	277	Interior Lighting	Change passenger lights to Docket 90 per 3-4	$1,805	$41,514
10	280	Passenger Signal	Change passenger signals at wheelchair positions to pushbuttons per 3-9.	$2	$56
11	280	Passenger Signal	Add pushbuttons on all vertical stanchions per 3-9	$198	$4,557
12	350	Drivers Control	Add hill holder switch per 4-6 and 5-4	$19	$442
13	304	Paint & Decal	Change paint to Silver with Red Decals and Anti Graffiti Clearcoat per 2-3 and attachment.	$9,788	$225,125
14	422	Body A/P After Paint	Remove rollerblind per California Vehicle Code, Section 26708. Note, NF can't install sun visor due to sawtooth per 4-9.	-$74	-$1,699
15	423	Advertising Frames	Add two interior ad frames 17" x 11" per 3-22	$34	$781
16	450	Flooring A/P	Change flooring to composite per 2-7	$1,502	$34,544
17	450	Flooring A/P	Change floor covering to Altro D25-421 "Midnight" per 2-7. Color Change onyly from base bus. No cost impact	$0	$0
18	460	Windows	Change windows to include window protection sheet (specific glazing), scratch resistant per 3-1 and attachment	$2,856	$65,690
20	600	Customer Options	Add Sportworks with indicator light per 2-3	$1,198	$27,545
21	600	Customer Options	Add Motorolla Radio system per 3-17.	$645	$14,843
23	600	Customer Options	Add dash panel rack (4 compartments) per 3-22	$167	$3,848
24	600	Customer Options	Add Emergency Warning light system (activated when silent alarm is tripped) per sec 3-22	$165	$3,786
25	600	Customer Options	Add S1 guard per 3-23	$1,929	$44,357
26	600	Customer Options	Add NEXTBUS system per 3-23	$2,298	$52,863

Reference No.	Option No.	Option Group	Description	Total	Total Contract
27	600	Customer Options	Add trash receptacle per 4-9	$11	$257
28	600	Customer Options	Add storage locker behind operator seat per 4-10	$87	$1,993
29	600	Customer Options	Rev C - Add Fleetmanagement	$1,102	$25,347
30	600	Customer Options	Add fire suppression per 5-7	$4,210	$96,828
31	549	HVAC System	Remove floor heating system and auxilliary heater.	-$3,635	-$83,604
32	470	Destination Signs	Rev C - Change destination signs to TwinVision Color Destination Signs (Front, C/side, S/side). Add amber rear.	$12,620	$290,252
33	600	Customer Options	Rev C - DTI Camera System	$21,671	$498,435
34	600	Customer Options	Add On-Board AVAS per 3-12 to 3-13	$14,559	$334,848
35	526	Seating & Stanchions	Rev C- Re-quote to American Seating 6468, 36 passenger seats (perimeter in the L/D and forward facing in upper deck), staggered forward facing Q'Straint W/C restraint, with blue push button, BC55 flip seats	$157	$3,601
36	526	Seating & Stanchions	Change driver seat to USSC 9100ALX non-D90 per 4-7.	$277	$6,365
37	600	Customer Options	Add APC per 3-20 to 3-22	$8,627	$198,410
38	Manuals	Deliverable	Remove MDOT Specific Manuals, replace with SFMTA specific manuals	$1,519	$34,929
39	280	Passenger Signal	Add Stop request sign on destination sign compartment door	$322	$7,405
42	Delivery	Deliverable	Add Delivery Quote	$3,909	$89,907
43	PPI	Producer Price Index	New Flyer/Allison Hybrid Credit	-$24,747	-$569,172
44	246	Air, Brake & Lev System	Rev C - Add rapid recover and equip with raise feature for steep inclines, 1" at 3 MPH is preferred to prevent chances of damaging front shocks.	$692	$15,922
45	600	Customer Options	Rev C - Add beeper exterior sound when buses are turning with via footswitch. Note, the volume of the exterior beeper will not be adjustable by the driver.	$43	$998
46	350	Drivers Control	Rev B- Change to teleflex pedals.	$975	$22,416
47	600	Customer Options	Rev B- Add additional feature for exterior announcement as passenger exit the bus "Do not walk in fornt of bus". No additional cost, feature is standard in AVAS system	$0	$0
48	491	Door Exit	Rev B - Re-quote Vapor Class system to include Activair baseplate with locking mechanism.	$3,369	$77,482
49	526	Seating & Stanchions	Rev B- Add 10" seat belt extender, to change seat belt length.	$78	$1,797
50	549	HVAC System	Rev B - Change to Heat only. (Pricing per MDOT contract)	-$11,073	-$254,679

Reference No.	Option No.	Option Group	Description	Total	Total Contract
51	600	Customer Options	Rev B- Delete the farebox pedestal portion of the farebox, the farebox will sit on the floor so it does not obscure the driver's view in the event a 41" farebox installed.	-$190	-$4,374
52	600	Customer Options	Rev B - Add transfer mounting bracket, farebox mounting support plate and wiring.	$105	$2,412
53	526	Seating & Stanchions	Rev B- Add qty 12 metal grab straps. Change stanchions to cast fittings for use with metal grab straps. Note: Metal grab straps not useable with bonded stanchions.	$654	$15,042
54		Customer Options	Rev C - Add customer specific farebox pedestal (in the event an 41" farebox is installed)	$538	$12,381
55	205	Tires	Rev C - Change the wheels to Alcoa Dura-Brite.	$682	$15,686
56	273	Exterior Lamp	Rev C - Change to two 18"x 1"LED center stop/deceleration light above the engine door in lieu of flashing decel system per Section 3.3.2.	$64	$1,470
57	600	Customer Options	Rev C - Add two (2) external recessed buttons (elevator switches)	$319	$7,328
58	600	Customer Options	Rev C - Clipper cable harnesses.	$463	$10,638
59	231	Cooling System	Rev C - Add EMP cooling system to base.	$8,625	$198,375
60	422	Body A/P After Paint	Rev C - Add byfold drivers enclosure.	$2,470	$56,805
61	600	Customer Options	Rev C - Add rearview camera system with 7" color monitor in driver's area	$1,666	$38,316
62	600	Customer Options	Rev C - Add Drive cam with event recorder	$625	$14,375
63	422	Body A/P After Paint	Rev C - Add two more for a total of four Equipment Trays.	$351	$8,068
65	Ext. Warranty	Deliverable	Add 2nd Year Bumper to Bumper extended warranty	$9,944	$228,714
66	Ext. Warranty	Deliverable	Add 3 year Extended Allison Warranty	$17,545	$403,535
69	Bonding	Deliverable	Add 20% Performance Bond and 2 year,10% Warranty Bond	$6,020	$138,460
70	Discount	Discount	Customer Discount	-$6,020	-$138,460
71	219	Engine	Change to Allison EV50	$22,947	$527,781
Base Bus Price Change Total				$126,147	$2,901,376
41	705	Contract Spares	One Spare Wheel per bus	$456	$10,490
Contract Spares Base Bus Price Change Total				$456	$10,490
Grand Total				$126,603	$2,911,866

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Base Bus Price Change for B.A.E Propulsion System

Reference No.	Option No.	Option Group	Description	Total	Total Contract
1	420	Body A/P Before Paint	Add Docket 90 per 1-12	$853	$18,776
2	246	Air, Brake & Lev System	Add E-stroke per 5-3	$2,519	$55,425
3	205	Tires	Change to customer supplied LEASED tires, to be furnished by contractor per 5-7	-$2,861	-$62,943
4	219	Engine	Add engine probalizer per 6-3	$55	$1,214
5	246	Air, Brake & Lev System	Change air dryer to Graham White QBA60 per 5-5	$1,181	$25,991
6	246	Air, Brake & Lev System	Add Automatic traction control per 5-3	$84	$1,854
7	260	Battery Compartment	Change batteries to 8D (AGM/Deka) East Penn, 1350 CCA batteries.	$204	$4,481
8	260	Battery Compartment	Add Anderson jumpstart per 7-4. Remove per customer request	$0	$0
9	277	Interior Lighting	Change passenger lights to Docket 90 per 3-4	$1,805	$39,709
10	280	Passenger Signal	Change passenger signals at wheelchair positions to pushbuttons per 3-9.	$2	$54
11	280	Passenger Signal	Add pushbuttons on all vertical stanchions per 3-9	$198	$4,359
12	350	Drivers Control	Add hill holder switch per 4-6 and 5-4	$19	$423
13	304	Paint & Decal	Change paint to Silver with Red Decals and Anti Graffiti Clearcoat per 2-3 and attachment.	$9,788	$215,337
14	422	Body A/P After Paint	Remove rollerblind per California Vehicle Code, Section 26708. Note, NF can't install sun visor due to sawtooth per 4-9.	-$74	-$1,625
15	423	Advertising Frames	Add two interior ad frames 17" x 11" per 3-22	$34	$747
16	450	Flooring A/P	Change flooring to composite per 2-7	$1,502	$33,042
17	450	Flooring A/P	Change floor covering to Altro D25-421 "Midnight" per 2-7. Color Change onyly from base bus. No cost impact	$0	$0
18	460	Windows	Change windows to include window protection sheet (specific glazing), scratch resistant per 3-1 and attachment	$2,856	$62,834
20	600	Customer Options	Add Sportworks with indicator light per 2-3	$1,198	$26,348
21	600	Customer Options	Add Motorolla Radio system per 3-17.	$645	$14,198
23	600	Customer Options	Add dash panel rack (4 compartments) per 3-22	$167	$3,681

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Reference No.	Option No.	Option Group	Description	Total	Total Contract
24	600	Customer Options	Add Emergency Warning light system (activated when silent alarm is tripped) per sec 3-22	$165	$3,621
25	600	Customer Options	Add S1 guard per 3-23	$1,929	$42,428
26	600	Customer Options	Add NEXTBUS system per 3-23	$2,298	$50,565
27	600	Customer Options	Add trash receptacle per 4-9	$11	$246
28	600	Customer Options	Add storage locker behind operator seat per 4-10	$87	$1,907
29	600	Customer Options	Rev C - Add Fleetmanagement	$1,102	$24,245
30	600	Customer Options	Add fire suppression per 5-7	$4,210	$92,618
31	549	HVAC System	Remove floor heating system and auxilliary heater.	-$3,635	-$79,969
32	470	Destination Signs	Rev C - Change destination signs to TwinVision Color Destination Signs (Front, C/side, S/side). Add amber rear.	$12,620	$277,632
33	600	Customer Options	Rev C - DTI Camera System	$21,671	$476,764
34	600	Customer Options	Add On-Board AVAS per 3-12 to 3-13	$14,559	$320,289
35	526	Seating & Stanchions	Rev C- Re-quote to American Seating 6468, 36 passenger seats (perimeter in the L/D and forward facing in upper deck), staggered forward facing Q'Straint W/C restraint, with blue push button, BC55 flip seats	$157	$3,444
36	526	Seating & Stanchions	Change driver seat to USSC 9100ALX non-D90 per 4-7.	$277	$6,089
37	600	Customer Options	Add APC per 3-20 to 3-22	$8,627	$189,783
38	Manuals	Deliverable	Remove MDOT Specific Manuals, replace with SFMTA specific manuals	$1,559	$34,288
39	280	Passenger Signal	Add Stop request sign on destination sign compartment door	$322	$7,083
42	Delivery	Deliverable	Add Delivery Quote	$3,909	$85,998
43	PPI	Producer Price Index	New Flyer/Allison Hybrid Credit	-$24,747	-$544,426
44	246	Air, Brake & Lev System	Rev C - Add rapid recover and equip with raise feature for steep inclines, 1" at 3 MPH is preferred to prevent chances of damaging front shocks.	$692	$15,230
45	600	Customer Options	Rev C - Add beeper exterior sound when buses are turning with via footswitch. Note, the volume of the exterior beeper will not be adjustable by the driver.	$43	$955

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Reference No.	Option No.	Option Group	Description	Total	Total Contract
46	350	Drivers Control	Rev B- Change to teleflex pedals.	$975	$21,441
47	600	Customer Options	Rev B- Add additional feature for exterior announcement as passenger exit the bus "Do not walk in fornt of bus". No additional cost, feature is standard in AVAS system	$0	$0
48	491	Door Exit	Rev B - Re-quote Vapor Class system to include Activair baseplate with locking mechanism.	$3,369	$74,113
49	526	Seating & Stanchions	Rev B- Add 10" seat belt extender, to change seat belt length.	$78	$1,719
50	549	HVAC System	Rev B - Change to Heat only. (Pricing per MDOT contract)	-$11,073	-$243,606
51	600	Customer Options	Rev B- Delete the farebox pedestal portion of the farebox, the farebox will sit on the floor so it does not obscure the driver's view in the event a 41" farebox installed.	-$190	-$4,184
52	600	Customer Options	Rev B - Add transfer mounting bracket, farebox mounting support plate and wiring.	$105	$2,307
53	526	Seating & Stanchions	Rev B- Add qty 12 metal grab straps. Change stanchions to cast fittings for use with metal grab straps. Note: Metal grab straps not useable with bonded stanchions.	$654	$14,388
54		Customer Options	Rev C - Add customer specific farebox pedestal (in the event an 41" farebox is installed)	$538	$11,843
55	205	Tires	Rev C - Change the wheels to Alcoa Dura-Brite.	$682	$15,004
56	273	Exterior Lamp	Rev C - Change to two 18"x 1"LED center stop/deceleration light above the engine door in lieu of flashing decel system per Section 3.3.2.	$64	$1,407
57	600	Customer Options	Rev C - Add two (2) external recessed buttons (elevator switches)	$319	$7,009
58	600	Customer Options	Rev C - Clipper cable harnesses.	$463	$10,176
59	231	Cooling System	Rev C - Add EMP cooling system to base.	$8,625	$189,750
60	422	Body A/P After Paint	Rev C - Add byfold drivers enclosure.	$2,470	$54,335
61	600	Customer Options	Rev C - Add rearview camera system with 7" color monitor in driver's area	$1,666	$36,650
62	600	Customer Options	Rev C - Add Drive cam with event recorder	$625	$13,750

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Reference No.	Option No.	Option Group	Description	Total	Total Contract
63	422	Body A/P After Paint	Rev C - Add two more for a total of four Equipment Trays.	$351	$7,718
64	219	Engine	REV C - Add APS 2	$15,000	$330,000
65	Ext. Warranty	Deliverable	Add 2nd Year Bumper to Bumper extended warranty	$9,944	$218,770
66	Ext. Warranty	Deliverable	Add 3 year Extended BAE Warranty	$16,500	$363,000
69	219	Engine	Change to Electric power steering and compressor	$5,078	$111,715
71	Bonding	Deliverable	Add 20% Performance Bond and 2 year,10% Warranty Bond	$6,020	$132,440
72	Discount	Discount	Customer Discount	-$6,020	-$132,440
Base Bus Price Change Total				$122,273	$2,689,997
41	705	Contract Spares	One Spare Wheel per bus	$456	$10,034
Contract Spares Base Bus Price Change Total				$456	$10,034
Grand Total				$122,729	$2,700,031

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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
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

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

EXHIBIT D
PUBLICATIONS

Description	Quantity	Customer Delivery	Updates (Years)	Comments
New Flyer Standard Bus Publications (BAE)				
Draft Operator's Guide (8.5 x 11 3-hole)	1	With prototype bus delivery	12	
Draft Parts Manual	1	With prototype bus delivery	12	
Draft Service Manual	1	With prototype bus delivery	12	
Draft Bus System Drawings Manual (11 x 17 3-hole regular paper)	1	With prototype bus delivery	12	
Draft TIV CD ROM	1	With prototype bus delivery	12	CD includes only New Flyer manuals plus
Final Operator's Guide (8.5 x 11 3-hole)	400	20 business days after last bus delivery	12	
Final Parts Manual	15	20 business days after last bus delivery	12	
Final Service Manual	15	20 business days after last bus delivery	12	
Final Bus System Drawings Manual (11 x 17 3-hole regular paper)	15	20 business days after last bus delivery	12	
Final Response Guides (8.5 x 11 laminated cards)	22	20 business days after last bus delivery	12	
TIV CD ROM	1	20 business days after last bus delivery	12	CD includes only New Flyer manuals plus
OEM Vendor Publications				
Cummins ISB 2010 (CM2150) Engine OEM Vendor Manual Set (includes only the following)				
Custom parts manual	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
Troubleshooting & Repair - Electronic Control System (Volume 1-4)	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
Service Manual (Volume 1 & 2)	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	

Description	Quantity	Customer Delivery	Updates (Years)	Comments
Operation and Maintenance Manual	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
Owner's Manual	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
Custom parts manual PDF file	1	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
BAE HDS200 HybriDrive OEM Manual Set (includes only the following)				
HDS200 HybriDrive System Manual	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	Includes all parts, service, and maintenance information
Thermo King HVAC OEM Manual (includes only the following)				
Unit Maintenance Manual	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
Intelligaire III Diagnostic Manual	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
EMP Cooling OEM Manual (includes only the following)				
MH Cooling System Service Manual	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
OK6 Oil Cooler Service Manual	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
Twin Vision Destination Sign OEM Manual (includes only the following)				
Operation & Maintenance Manual	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
AVA/AVL System OEM Manual (includes only the following)				
DR600 Operations and Maintenance Manual	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
Video Surveillance System OEM Manual (includes only the following)				

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Description	Quantity	Customer Delivery	Updates (Years)	Comments
Operation & Maintenance Manual	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
WABCO ABS System OEM Manual (includes only the following)				
Operation & Maintenance Manual	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
Amerex FSS OEM Manual (includes only the following)				
Operation & Maintenance Manual	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
Operation & Maintenance Manual	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
Vansco Multiplexing System OEM Manual (includes only the following)				
Hardware User Guide	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
Software User Guide	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	

Description	Quantity	Customer Delivery	Updates (Years)	Comments
New Flyer Standard Bus Publications (Allison)				
Draft Operator's Guide (8.5 x 11 3-hole)	1	With prototype bus delivery	12	
Draft Parts Manual	1	With prototype bus delivery	12	
Draft Service Manual	1	With prototype bus delivery	12	
Draft Bus System Drawings Manual (11 x 17 3-hole regular paper)	1	With prototype bus delivery	12	
Draft TIV CD ROM	1	With prototype bus delivery	12	CD includes only New Flyer manuals plus
Final Operator's Guide (8.5 x 11 3-hole)	400	20 business days after last bus delivery	12	
Final Parts Manual	15	20 business days after last bus delivery	12	
Final Service Manual	15	20 business days after last bus delivery	12	
Final Bus System Drawings Manual (11 x 17 3-hole regular paper)	15	20 business days after last bus delivery	12	
Final Response Guides (8.5 x 11 laminated cards)	23	20 business days after last bus delivery	12	
TIV CD ROM	1	20 business days after last bus delivery	12	CD includes only New Flyer manuals plus
OEM Vendor Publications				
Cummins ISL 9L 2010 (CM2250) Engine OEM Vendor Manual Set (includes only the following)				
Custom parts manual	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
Troubleshooting & Repair - Electronic Control System (Volume 1-4)	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
Service Manual (Volume 1 & 2)	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
Operation and Maintenance Manual	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	

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Description	Quantity	Customer Delivery	Updates (Years)	Comments
Owner's Manual	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
Custom parts manual PDF file	1	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
Allison EP50 Hybrid Drive OEM Manual Set (includes only the following)				
Service Manual	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
Parts Manual	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
Troubleshooting Manual	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
Principle of Operations	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
Mechanics Tips	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
Operator's Manuals	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
Thermo King HVAC OEM Manual (includes only the following)				
Unit Maintenance Manual	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
Intelligaire III Diagnostic Manual	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
EMP Cooling OEM Manual (includes only the following)				
MH Cooling System Service Manual	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
OK6 Oil Cooler Service Manual	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
Twin Vision Destination Sign OEM Manual (includes only the following)				

Description	Quantity	Customer Delivery	Updates (Years)	Comments
Operation & Maintenance Manual	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
Video Surveillance System OEM Manual (includes only the following)				
Operation & Maintenance Manual	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
WABCO ABS System OEM Manual (includes only the following)				
Operation & Maintenance Manual	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
Amerex FSS OEM Manual (includes only the following)				
Operation & Maintenance Manual	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
Operation & Maintenance Manual	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
Vansco Multiplexing System OEM Manual (includes only the following)				
Hardware User Guide	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	
Software User Guide	15	With prototype bus delivery or soon after receiving from OEM supplier	N/A	

File No. 120908

FORM SFEC-126:
NOTIFICATION OF CONTRACT APPROVAL

(S.F. Campaign and Governmental Conduct Code § 1.126)

City Elective Officer Information *(Please print clearly.)*	
Name of City elective officer(s): Members, SF Board of Supervisors	City elective office(s) held: Members, SF Board of Supervisors

Contractor Information *(Please print clearly.)*	
Name of contractor: **New Flyer of America Inc.**	
Please list the names of (1) members of the contractor's board of directors; Brian Tobin, V. James Sardo, Wayne McLeod, Larry Edwards, Patricia Jacobsen, John Marinucci, Adam Gray, William Millar, Paul Soubry *(2) the contractor's chief executive officer, chief financial officer and chief operating officer;* Paul Soubry (President and CEO), Glenn Asham (Chief Financial Officer), Wayne Joseph (Executive Vice President, Operations) *(3) any person who has an ownership of 20 percent or more in the contractor;* None *(4) any subcontractor listed in the bid or contract;* None *and (5) any political committee sponsored or controlled by the contractor. Use additional pages as necessary.* None	
Contractor address: **Corporate Office: 711 Kernaghan Avenue, Winnipeg Manitoba, Canada R2C 3T4**	
Date that contract was approved:	Amount of contract: **$36,889,364**
Describe the nature of the contract that was approved: **SFMTA: 45 40-foot low floor diesel-hybrid buses**	
Comments:	

This contract was approved by (check applicable):

☐ the City elective officer(s) identified on this form

☒ a board on which the City elective officer(s) serves San Francisco Board of Supervisors
Print Name of Board

☐ the board of a state agency (Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Redevelopment Agency Commission, Relocation Appeals Board, Treasure Island Development Authority) on which an appointee of the City elective officer(s) identified on this form sits

Print Name of Board

Filer Information *(Please print clearly.)*	
Name of filer: Angela Calvillo, Clerk of the Board	Contact telephone number: 415-554-5184
Address: City Hall, Room 244 1 Dr. Carlton B. Goodlett Pl. SF CA 94102	E-mail: Board.of.Supervisors@sfgov.org

Signature of City Elective Officer (if submitted by City elective officer) — Date Signed

Signature of Board Secretary or Clerk (if submitted by Board Secretary or Clerk) — Date Signed