

Amendment No. 1
to
Agreement between
the City and County of San Francisco
and
New Flyer of America Inc.
for Procurement of 40-Ft and 60-Ft Low Floor Diesel Hybrid Coaches
Contract No. CPT 713
CCO No. 14-1287

This Amendment No. 1 to Agreement is made and effective this 29th day of JUNE, 2015, 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. On December 30, 2014, the City entered into Contract No. CPT 713 with New Flyer (the Agreement) to purchase 61 60-ft (articulated) low floor, diesel hybrid coaches (coaches) and associated spare parts, training, manuals, and special tools.

B. The City now wishes to amend the Agreement to change the base order quantity of 61 articulated parallel propulsion coaches to a combination of 55 articulated parallel propulsion coaches and six articulated series propulsion coaches.

C. Section 65 of the Agreement contains an option for the City to procure up to 200 standard (40-ft.) coaches and up to 163 articulated coaches, as well as an option to purchase associated spare parts. City now wishes to exercise the option in order to purchase 24 series propulsion standard coaches, 24 parallel propulsion standard coaches, 25 series propulsion articulated coaches, 25 parallel propulsion articulated coaches, and associated spare parts, training, manuals, and special tools from New Flyer under the terms set forth in this Amendment.

Now, THEREFORE, the parties agree as follows:

1. Section 4 of the Agreement (Work Contractor Agrees to Perform) is amended in its entirety to read as follows:

This Agreement is for the procurement of 61 60-ft, low floor, diesel hybrid coaches with options of up to 163 additional 60-ft, low floor diesel hybrid coaches and 200 40-ft. low floor diesel hybrid coaches as provided for in the Technical Specifications, and in the Contractor's Proposal (as incorporated into the Conformed Contract Documents), according to the Project Delivery Schedules set forth in Exhibits 2, and 2.1, incorporated by reference as though fully set forth.

2. Section 5.1 of the Agreement is amended in its entirety to read as follows:

5.1 In no event shall the amount of this Agreement exceed One Hundred Sixty-Seven Million, Six Hundred Thirty-Nine Thousand, Six Hundred Sixty-Nine U.S. Dollars (\$167,639,669 U.S.). This amount does not include California sales taxes, which shall be paid directly by the SFMTA. The breakdown of costs associated with this Agreement appears in Exhibit 1 (Schedule of Prices), incorporated by reference as though fully set forth herein.

3. In Section 7.3 (Progress Payments) on page 6 of the Agreement, the sentence that reads "Each item listed below is from the Schedule of Prices set forth in Exhibit 1" is deleted and replaced with the following sentence:

The following items will be paid as set forth below, based on the unit prices in Exhibit 1 (Schedule of Prices). Milestone payments apply to both the base order and any options exercised..

4. Schedules 2, 2.1, 3 and 3.1 of Exhibit 1 of the Agreement (Schedule of Prices) are deleted and replaced by the attached Schedules 2, 2.1, 3 and 3.1.

5. Exhibits 2 and 2.1 of the Agreement (Project Delivery Schedule) are deleted and replaced by the attached Exhibits 2 and 2.1.

6. Release. The compensation (time and cost) set forth in this Amendment comprises the total of all compensation due to Contractor, and all subcontractors and suppliers (collectively, Contractor), as a result of the events giving rise to the Amendment and for the additional Work described in this Amendment, including, but not limited to, costs for labor, materials, equipment, delay, escalation, profit, inefficiency, overhead and administration. The execution of this Amendment constitutes a release and accord and satisfaction of any claim that Contractor may bring, as of the date of the approval of Amendment, for the Option Vehicles and parts, for additional compensation or time arising from, or related to, the procurement and delivery of the Option Vehicles to the City as described in this Amendment.

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

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

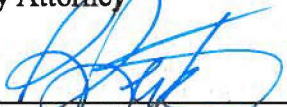
CITY

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. 15-063

Dated: 4/21/15

Attest: 
Secretary, SFMTA Board of Directors

Board of Supervisors

Resolution No. 224-15

Dated: 6/18/15

Attest:




Clerk of the Board

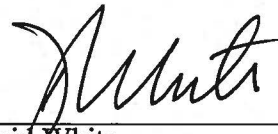
Exhibits:

Exhibit 1, Schedules 2, 2.1, 3, and 3.1
Exhibits 2 and 2.1

CONTRACTOR

New Flyer of America Inc.



Paul Soubry
President & CEO
~~Executive Vice President, Sales and Marketing~~


David White
Executive Vice President, Supply Management

711 Kernaghan Avenue
Winnipeg, Manitoba,
Canada R2C 3T4

City vendor number: 49642



Exhibit 1
Schedule of Prices

SCHEDULE 2 - SCHEDULE OF PRICES
40-FT LOW FLOOR (SERIES) DIESEL HYBRID COACHES

| No | Qty. | Description | Unit Price | Total Price |
|-----|---------------------------------|------------------------------------------------------------------------------------|------------------------------------------------------------|----------------------------------------------|
| 1. | 24 | Option for 1-48 40-ft Low Floor Series Diesel Hybrid Coaches in year 2015 | \$723,790 + \$6,234 PPI ⁽¹⁾ \$730,024 | \$17,520,576 |
| 2. | Per schedule 2A | Spare Parts for 40-ft Low floor Diesel Hybrid coaches (from Schedule 2A) | \$1,087,362 + \$9,366 PPI ⁽¹⁾ \$1,096,728 | \$1,096,728 |
| 3. | Per Tech. Specs., Attachment 14 | Training for 40-ft Low Floor Diesel Hybrid Coaches | \$1,104,030 | \$1,104,030 |
| 4. | Per Section 9 of Tech. Specs. | Interactive Multimedia Training for 40-ft Low Floor Diesel Hybrid Coaches | \$236,250 | \$236,250 |
| 5. | Per Section 9 of Tech. Specs. | Operating, Maintenance and Parts Manuals for 40-ft Low Floor Diesel Hybrid Coaches | \$ 0 | \$ 0 |
| 6. | Per Schedule 2B | Special Tools for 40-ft Low Floor Diesel Hybrid Coaches (from Schedule 2B) | \$1,106,541 + \$9,531 PPI ⁽¹⁾ \$1,116,072 | \$1,116,072 |
| 7. | 41 | Option for 1-41 40-ft Low Floor Series Diesel Hybrid Coach in year 2016 | <u>\$Item 1 Unit Price</u> + PPI ⁽¹⁾ | \$Item 1 Total Price + PPI ⁽¹⁾ |
| 8. | 30 | Option for 1-30 40-ft Low Floor Series Diesel Hybrid Coaches in year 2017 | <u>\$Item 1 Unit Price</u> + PPI ⁽¹⁾ | \$Item 1 Total Price + PPI ⁽¹⁾ |
| 9. | 36 | Option for 1-36 40-ft Low Floor Series Diesel Hybrid Coaches in year 2018 | <u>\$Item 1 Unit Price</u> + PPI ⁽¹⁾ | \$Item 1 Total Price + PPI ⁽¹⁾ |
| 10. | 45 | Option for 1-45 40-ft Low Floor Series Diesel Hybrid Coaches in year 2019 | <u>\$Item 1 Unit Price</u> + PPI ⁽¹⁾ | \$Item 1 Total Price + PPI ⁽¹⁾ |
| | | | Grand Total | \$20,837,406 |

(1) PPI: Producer's Price Index for Transportation Equipment Manufacturing: NAICS 336 to be determined at the time the options are exercised, calculated from the effective date of the contract.

**SCHEDULE 2.1 - SCHEDULE OF PRICES
40-FT LOW FLOOR (PARALLEL) DIESEL HYBRID COACHES**

| No | Qty. | Description | Unit Price | Total Price |
|--------------------|------------------------------------------|--------------------------------------------------------------------------------------|-------------------------------------------------------------|-------------------------------------------|
| 1 | 24 | Option for 1-48 40-ft Low Floor Parallel Diesel Hybrid Coaches in year 2015 | \$782,035 + \$6,736 PPI ⁽¹⁾ \$788,771 | \$18,930,504 |
| 2 | Per schedule 2A.1 | Spare Parts for 40-ft Low floor Diesel Hybrid coaches (from Schedule 2A) | \$1,492,330 + \$12,854 PPI ⁽¹⁾ \$1,505,184 | \$1,505,184 |
| 3 | Per Tech. Specs., Attachment 14 | Training for 40-ft Low Floor Diesel Hybrid Coaches | \$1,104,030 | \$1,104,030 |
| 4 | Per Section 9 of Tech. Specs. | Interactive Multimedia Training for 40-ft Low Floor Diesel Hybrid Coaches | \$236,250 | \$236,250 |
| 5 | Per Section 9 of Tech. Specs. | Operating, Maintenance and Parts Manuals for 40-ft Low Floor Diesel Hybrid Coaches | \$ 0 | \$ 0 |
| 6 | Per Schedule 2B.1 | Special Tools for 40-ft Low Floor Diesel Hybrid Coaches (from Schedule 2B) | \$1,108,918 + \$9,551 PPI ⁽¹⁾ \$1,118,469 | \$1,118,469 |
| 7 | 41 | Option for 1-41 40-ft Low Floor Parallel Diesel Hybrid Coach in year 2016 | \$Item 1 Unit Price + PPI ⁽¹⁾ | \$Item 1 Total Price + PPI ⁽¹⁾ |
| 8 | 30 | Option for 1-30 40-ft Low Floor Parallel Diesel Hybrid Coaches in year 2017 | \$Item 1 Unit Price + PPI ⁽¹⁾ | \$Item 1 Total Price + PPI ⁽¹⁾ |
| 9 | 36 | Option for 1-36 40-ft Low Floor Parallel Diesel Hybrid Coaches in year 2018 | \$Item 1 Unit Price + PPI ⁽¹⁾ | \$Item 1 Total Price + PPI ⁽¹⁾ |
| 10 | 45 | Option for 1-45 40-ft Low Floor Parallel Diesel Hybrid Coaches in year 2019 | \$Item 1 Unit Price + PPI ⁽¹⁾ | \$Item 1 Total Price + PPI ⁽¹⁾ |
| Grand Total | | | | \$22,658,187 |

(1) PPI: Producer's Price Index for Transportation Equipment Manufacturing: NAICS 336 to be determined at the time the options are exercised, calculated from the effective day of the contract.

**SCHEDULE 3 - SCHEDULE OF PRICES
60-FT LOW FLOOR (SERIES) DIESEL HYBRID COACHES**

| No. | Qty. | Description | Unit Price | Total Price |
|--------------------|---------------------------------|------------------------------------------------------------------------------------|------------------------------------------------------------|--------------------------------------------------|
| 1. | 6 | 60-ft Low Floor Series Diesel Hybrid Coaches – Base Contract | \$1,024,838 | \$6,149,028 |
| 2. | Per Schedule 3A | Spare Parts for 60-ft Low floor Diesel Hybrid coaches (from Schedule 3A) | \$1,438,128 | \$1,438,128 |
| 3. | Per Tech. Specs., Attachment 14 | Training for 60-ft Low Floor Diesel Hybrid Coaches | \$1,104,030 | \$1,104,030 |
| 4. | Per Section 9 of Tech. Specs. | Interactive Multimedia Training for 60-ft Low Floor Diesel Hybrid Coaches | \$236,250 | \$236,250 |
| 5. | Per Section 9 of Tech. Specs. | Operating, Maintenance and Parts Manuals for 60-ft Low Floor Diesel Hybrid Coaches | \$ 0 | \$ 0 |
| 6. | Per Schedule 3B | Special Tools for 60-ft Low Floor Diesel Hybrid Coaches (from Schedule 3B) | \$1,105,812 | \$1,105,812 |
| 7. | 25 | Option for 1-50 60-ft Low Floor Series Diesel Hybrid Coaches in year 2015 | \$1,024,838 + \$8,827 PPI ⁽¹⁾ \$1,033,665 | \$25,841,625 |
| 8. | 48 | Option for 1-48 60-ft Low Floor Series Diesel Hybrid Coaches in year 2016 | <u>\$Base Unit Price</u> + PPI ⁽¹⁾ | <u>\$Base Unit Price</u> + PPI ⁽¹⁾ |
| 9. | 35 | Option for 1-35 60-ft Low Floor Series Diesel Hybrid Coaches in year 2018 | <u>\$Base Unit Price</u> + PPI ⁽¹⁾ | <u>\$Base Unit Price</u> + PPI ⁽¹⁾ |
| 10. | 30 | Option for 1-30 60-ft Low Floor Series Diesel Hybrid Coaches in year 2019 | <u>\$Base Unit Price</u> + PPI ⁽¹⁾ | <u>\$Base Unit Price</u> + PPI ⁽¹⁾ |
| Grand Total | | | | \$35,874,873 |

(1) PPI: Producer's Price Index for Transportation Equipment Manufacturing: NAICS 336, to be determined at the time the options are exercised, calculated from the effective date of the contract.

**SCHEDULE 3.1 - SCHEDULE OF PRICES
60-FT LOW FLOOR (PARALLEL) DIESEL HYBRID COACHES**

| No. | Qty. | Description | Unit Price | Total Price |
|--------------------|---------------------------------|------------------------------------------------------------------------------------|----------------------------------------------------------|--------------------------------------------------------|
| 1. | 55 | 60-ft Low Floor Parallel Diesel Hybrid Coaches – Base Contract | \$1,041,443 | \$57,279,351 |
| 2. | Per Schedule 3A.1 | Spare Parts for 60-ft Low floor Diesel Hybrid coaches (from Schedule 3A) | \$1,891,719 | \$1,891,719 |
| 3. | Per Tech. Specs., Attachment 14 | Training for 60-ft Low Floor Diesel Hybrid Coaches | \$1,104,030 | \$1,104,030 |
| 4. | Per Section 9 of Tech. Specs. | Interactive Multimedia Training for 60-ft Low Floor Diesel Hybrid Coaches | \$236,250 | \$236,250 |
| 5. | Per Section 9 of Tech. Specs. | Operating, Maintenance and Parts Manuals for 60-ft Low Floor Diesel Hybrid Coaches | \$ 0 | \$ 0 |
| 6. | Per Schedule 3B.1 | Special Tools for 60-ft Low Floor Diesel Hybrid Coaches (from Schedule 3B) | \$1,497,529 | \$1,497,529 |
| 7. | 25 | Option for 1-50 60-ft Low Floor Parallel Diesel Hybrid Coach in year 2015 | \$1,041,443 + 8,970 PPI ⁽¹⁾ \$1,050,413 | \$26,260,325 |
| 8. | 48 | Option for 1-48 60-ft Low Floor Parallel Diesel Hybrid Coaches in year 2016 | $\frac{\$ \text{Base Unit Price}}{+ \text{PPI}^{(1)}}$ | $\frac{\$ \text{Base Unit Price}}{+ \text{PPI}^{(1)}}$ |
| 9. | 35 | Option for 1-35 60-ft Low Floor Parallel Diesel Hybrid Coaches in year 2018 | $\frac{\$ \text{Base Unit Price}}{+ \text{PPI}^{(1)}}$ | $\frac{\$ \text{Base Unit Price}}{+ \text{PPI}^{(1)}}$ |
| 10 | 30 | Option for 1-30 60-ft Low Floor Parallel Diesel Hybrid Coaches in year 2019 | $\frac{\$ \text{Base Unit Price}}{+ \text{PPI}^{(1)}}$ | $\frac{\$ \text{Base Unit Price}}{+ \text{PPI}^{(1)}}$ |
| Grand Total | | | | \$88,269,204 |

(1) PPI: Producer's Price Index for Transportation Equipment Manufacturing: NAICS 336, to be determined at the time the options are exercised, calculated from the effective date of the contract.

Exhibit 2: PROJECT DELIVERY SCHEDULE

40-FT LOW FLOOR DIESEL HYBRID COACHES (2015 Option)

| Item | Calendar Days after Notice-to-Proceed |
|------------------------------------------------------------------------------------|------------------------------------------------------|
| Submittal of Baseline Schedule and Management Work Plan | 35 |
| Submittal of vehicle drawings, control, Reliability Program Plan and test plans | 175 |
| Submittal of training program (including lesson plans) | 60 |
| Delivery of prototype coach ¹ | 203 |
| Submittal of draft operations, maintenance, parts manuals, recommended spare parts | 203 |

| Item | Calendar Days after Approval of Prototype Coach |
|--------------------------------------------------------------|--------------------------------------------------------------------|
| Beginning of coach delivery ² | 60 |
| Delivery of first half of spare parts (Lot 1) | 100 |
| Delivery of second half of spare parts (Lot 2) | 200 |
| Completion of training program | 730 |
| Submittal of final operations, maintenance, and parts manual | 100 |
| Delivery of special tools | 100 |
| Completion of coach delivery | 200 |

¹ Approval to deliver lead coach 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 tests as described in Section 11.2 of the Technical Specification.

Exhibit 2.1: PROJECT DELIVERY SCHEDULE
60-FT LOW FLOOR DIESEL HYBRID COACHES – Base Order Plus 2015 Option

| Item | Calendar Days after Notice-to-Proceed |
|------------------------------------------------------------------------------------|------------------------------------------------------|
| Submittal of Baseline Schedule and Management Work Plan | 35 |
| Submittal of vehicle drawings, control, Reliability Program Plan and test plans | 175 |
| Submittal of training program (including lesson plans) | 60 |
| Delivery of prototype coach ¹ | 203 |
| Submittal of draft operations, maintenance, parts manuals, recommended spare parts | 203 |

| Item | Calendar Days after Approval of Prototype Coach |
|--------------------------------------------------------------|--------------------------------------------------------------------|
| Beginning of coach delivery ² | 105 |
| Delivery of first half of spare parts (Lot 1) | 100 |
| Delivery of second half of spare parts (Lot 2) | 200 |
| Completion of training program | 730 |
| Submittal of final operations, maintenance, and parts manual | 100 |
| Delivery of special tools | 100 |
| Completion of coach delivery | 437 |

¹ Approval to deliver lead coach 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 tests as described in Section 11.2 of the Technical Specification.