

NYCT Committee
ACTIONS and PRESENTATIONS
SUMMARY for JULY 2023

Responsible Department	Vendor Name	Total Amount	Summary of action
NYCT / MTA Bus	New Flyer of America, Inc.	\$4,800,000	Modification to the contract for the purchase of 60 electric buses in order to allow for the development and integration of an early warning detection system for potential thermal events on the high-voltage battery system, and additional time for testing.

New York City Transit Procurements

Louis Montanti, MTA Deputy Chief Procurement Officer – Procurement Operations

PROCUREMENTS

The Procurement Agenda this month includes 1 action for a proposed estimated expenditure of \$4.8M.

Subject	Request for Authorization to Award Various Procurements				
Department	MTA Procurement				
Department Head Name	Lisette Camilo				
Department Head Signature					
Project Manager Name	Rose Davis				
Board Action					
Order	To	Date	Approval	Info	Other
1	Committee	07/17/23			
2	Board	07/19/23			

July 13, 2023			
Department			
Department Head Name			
Department Head Signature			
Internal Approvals			
	Approval		Approval
X	President NYCT	<i>FLC</i>	Pres. MTA Bus/SVP DOB
X	SVP Subways	X	Diversity/Civil Rights
X	Deputy CFO	X	Law

Internal Approvals (cont.)							
Order	Approval	Order	Approval	Order	Approval	Order	Approval

PURPOSE

To obtain approval of the Board to award various contracts and purchase orders, and to inform the NYC Transit Committee of these procurement actions.

DISCUSSION

NYC Transit proposes to award Noncompetitive procurements in the following categories: None

NYC Transit proposes to award Competitive procurements in the following categories:

Procurements Requiring Majority Vote:

	<u># of</u> <u>Actions</u>	<u>\$ Amount</u>
Schedule I: Modifications to Purchase and Public Works Contracts	1	\$ 4.8 M
SUBTOTAL	1	\$ 4.8 M

NYC Transit proposes to award Ratifications in the following categories: None

TOTAL	1	\$ 4.8 M
--------------	----------	-----------------

COMPETITIVE BIDDING REQUIREMENTS: The procurement actions in Schedules A, B, C, and D are subject to the competitive bidding requirements of PAL 1209 or 1265-a relating to contracts for the purchase of goods or public work. Procurement actions in the remaining Schedules are not subject to these requirements.

BUDGET IMPACT: The purchases/contracts will result in obligating funds in the amounts listed. Funds are available in the current operating/capital budgets for this purpose.

RECOMMENDATION: That the purchases/contracts be approved as proposed. (Items are included in the resolution of approval at the beginning of the Procurement Section.)

BOARD RESOLUTION

WHEREAS, in accordance with Sections 1265-a and 1209 of the Public Authorities Law and the All-Agency General Contract Procurement Guidelines, the Board authorizes the award of certain noncompetitive purchase and public work contracts, and the solicitation and award of requests for proposals regarding purchase and public work contracts; and

WHEREAS, in accordance with the All-Agency Service Contract Procurement Guidelines and General Contract Procurement Guidelines the Board authorizes the award of certain noncompetitive miscellaneous service and miscellaneous procurement contracts, certain change orders to purchase, public work, and miscellaneous service and miscellaneous procurement contracts, and

WHEREAS, in accordance with Section 2879 of the Public Authorities Law and the All-Agency Service Contract Procurement Guidelines, the Board authorizes the award of certain service contracts and certain change orders to service contracts.

NOW, the Board resolves as follows:

1. As to each purchase and public work contract set forth in annexed Schedule A, the Board declares competitive bidding to be impractical or inappropriate for the reasons specified therein and authorizes the execution of each such contract.
2. As to each request for proposals (for purchase and public work contracts) set forth in Schedule B for which authorization to solicit proposals is requested, for the reasons specified therein, the Board declares competitive bidding to be impractical or inappropriate, declares it is in the public interest to solicit competitive request for proposals, and authorizes the solicitation of such proposals.
3. As to each request for proposals (for purchase and public work contracts) set forth in Schedule C for which a recommendation is made to award the contract, the Board authorizes the execution of said contract.
4. As to each action set forth in Schedule D, the Board declares competitive bidding impractical or inappropriate for the reasons specified therein and ratifies each action for which ratification is requested.
5. The Board authorizes the execution of each of the following for which Board authorization is required: (i) the miscellaneous procurement contracts set forth in Schedule E; (ii) the personal service contracts set forth in Schedule F; (iii) the miscellaneous service contracts set forth in Schedule G; (iv) the modifications to personal/miscellaneous service contracts set forth in Schedule H; (v) the contract modifications to purchase and public work contracts set forth in Schedule I; and (vi) the modifications to miscellaneous procurement contracts set forth in Schedule J.
6. The Board ratifies each action taken set forth in Schedule K for which ratification is requested.

JULY 2023

LIST OF COMPETITIVE PROCUREMENTS FOR BOARD APPROVAL

Procurements Requiring Majority Vote:

I. Modifications to Purchase and Public Work Contracts

(Staff Summaries required for items estimated to be greater than \$1,000,000.)

- | | | |
|----------------------------|--------------------|--------------------------------------|
| 1. New Flyer | \$4,793,372 | <i>Staff Summary Attached</i> |
| 93 months | | |
| Contract# B40676R.1 | | |

Modification to the contract for the purchase of 60 low-floor 40-foot all electric buses, in order to extend the delivery schedule to allow New Flyer time, as required by NYC Transit, to develop, test, and install an early warning detection system for thermal events on each bus prior to delivery.

Schedule I: Modifications to Purchase and Public Work Contracts



Item Number:

Vendor Name (Location) New Flyer of America, Inc. (St. Cloud, Minnesota)
Description: Furnish and Deliver 60 Low-Floor 40-foot All-Electric Buses
Contract Term (including Options, if any) 93 Months from Notice of Award (inclusive of delivery of the buses and provision of warranty support)
Option(s) included in Total Amount? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> n/a
Procurement Type <input checked="" type="checkbox"/> Competitive <input type="checkbox"/> Noncompetitive
Solicitation Type <input type="checkbox"/> RFP <input type="checkbox"/> Bid <input checked="" type="checkbox"/> Other: Modification
Funding Source <input type="checkbox"/> Operating <input checked="" type="checkbox"/> Capital <input checked="" type="checkbox"/> Federal <input type="checkbox"/> Other:
Requesting Department: Department of Buses, Frank Annicaro

Contract Number B40676R	AWO/Mod. # 1
Original Amount:	\$ 63,531,289
Option Amount:	\$ 0
Total Amount:	\$ 63,531,289
Prior Modifications:	\$ 0
Prior Budgetary Increases:	\$ 0
Current Amount:	\$ 63,531,289
This Request:	\$ 4,793,372
% of This Request to Current Amount:	7.54%
% of Modifications (including This Request) to Original Amount:	7.54%

Discussion:

NYC Transit is seeking Board approval to memorialize the modification to a competitively negotiated purchase contract with New Flyer of America, Inc. (“New Flyer”) in the total amount of \$4,793,372. The contractor was directed to execute this modification in November 2022. The changes covered by this modification include an extension to the delivery schedule to allow New Flyer time, as required by NYC Transit, to develop, test and install an early warning detection system for thermal events on each bus prior to delivery.

The base contract was approved by the Board in November 2021 and awarded to New Flyer in December 2021 in the amount of \$63,531,289. Delivery of the pilot buses was originally scheduled for September 2022, and delivery of the production buses was scheduled to begin in June 2023 and be completed in September 2023.

The schedule was revised by four months due to a force majeure, resulting from a disruption to a sub-supplier of the battery manufacturer, that occurred in January 2022. Subsequently, nine additional weeks were added to the schedule at the request of NYC Transit in April 2022, to accommodate additional testing requirements. These adjustments resulted in a revised schedule for the production buses to be delivered between November 2023 and June 2024 and were made with no additional cost to NYC Transit.

Following a thermal event in late July 2022 on an all-electric bus in Connecticut, NYC Transit, Department of Buses met with New Flyer to discuss the need for an early warning detection system for thermal events related to the high-voltage battery storage system to be installed on the 60 all-electric buses scheduled for delivery. It should be noted that no such system was commercially available at the time of award from any all-electric bus manufacturer in the United States. The parties agreed that such a system was necessary and needed to be developed immediately; New Flyer agreed to develop the new system and retrofit all 60 of the buses purchased under this contract at no cost. NYC Transit requested that the delivery of the buses be delayed until the new system was fully developed and tested rather than have the buses retrofit with the new system after delivery. New Flyer indicated that given the high rate of inflation, moving the delivery out would have a significant cost impact. Given the safety sensitive nature of the new system, Department of Buses demanded that the delivery be delayed. At the conclusion of the negotiations in November 2022, it was agreed that (1) the delivery schedule would be pushed out and elongated, per NYC Transit’s direction; (2) NYC Transit would compensate New Flyer at a rate of \$79,890 per bus for the schedule adjustment (no additional compensation would be provided in the event it took New Flyer longer to develop, test and install the new system); and (3) New Flyer would develop the required early warning detection system and install it on all the buses prior to delivery at no additional cost to NYC Transit. Delivery of the production buses is now scheduled to begin in March 2024 and be completed in September 2024.

The final pricing for this modification was agreed upon at the time of negotiation and has been reviewed and found to be fair and reasonable.

Schedule I: Modifications to Purchase and Public Work Contracts



The contract resulting from this procurement is being evaluated to determine the necessity and appropriate scope of cybersecurity requirements, including any requirements under federal, state, and local law and regulations. Any applicable cybersecurity requirements, to the extent required, shall be included prior to award.

New Flyer has certified that pursuant to EO 16, it is not doing business in Russia.

Impact on Funding

This procurement action will utilize Capital funding.