OCTA

August 13, 2026

To: Transit Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: Contract Amendments for Zero-Emission Buses

Overview

On November 25, 2024, the Orange County Transportation Authority Board of Directors approved the purchase of 40 fuel-cell electric buses and ten battery-electric buses from New Flyer of America, Inc. Staff is requesting Board of Directors' approval to amend the bus purchase orders to provide additional funding to cover increased sales tax obligations resulting from the expiration of the California Department of Tax and Fee Administration's partial sales tax exemption for zero-emission transit buses and to incorporate changes to the vehicle specifications.

Recommendations

A. Authorize the Chief Executive Officer to negotiate and execute Amendment No. 4 to Purchase Order No. C-3-3021 between the Orange County Transportation Authority and New Flyer of America, Inc., in the amount of $2,368,562, for vehicle enhancements and increased sales tax costs on 40, 40-foot fuel-cell electric buses. This will increase the maximum obligation to a total purchase order amount of $65,963,073.

B. Authorize the Chief Executive Officer to negotiate and execute Amendment No. 3 to Purchase Order No. C-3-3022 between the Orange County Transportation Authority and New Flyer of America, Inc., in the amount of $491,669, for vehicle enhancements and increased sales tax costs on ten, 40-foot battery-electric buses. This will increase the maximum obligation to a total purchase order amount of $14,362,057.

Discussion

The Orange County Transportation Authority (OCTA), through the California Department of General Services (DGS), issued Purchase Order No. C-3-3021 for the procurement of 40, 40-foot fuel-cell electric buses (FCEB) and Purchase

Order No. C-3-3022 for the procurement of ten, 40-foot battery-electric buses (BEB) from New Flyer of America Inc. (New Flyer).

Since the execution of the purchase orders, two factors have increased contract costs beyond the originally authorized funding amounts and have created a funding shortfall that must be addressed to ensure continued contract performance and timely payment of invoices.

The first factor is the expiration of the California Department of Tax and Fee Administration (CDTFA) partial sales and use tax exemption for qualifying zero-emission transit buses. At the time the purchase orders were awarded, eligible zero-emission transit bus procurements qualified for a reduced sales and use tax rate of 3.94 percent. The exemption expired on December 31, 2025, increasing the applicable tax rate to 7.75 percent. Because the buses had not yet been invoiced and delivered before the exemption expired, the purchases became subject to the higher tax rate. This increased the cost of Purchase Order No. C-3-3021 for FCEBs by $2,238,528 and Purchase Order No. C-3-3022 for BEBs by $445,161.

The second factor is the incorporation of vehicle modifications and enhancements identified during the pre-production review and pilot bus production process. During this phase, advancements in vehicle technology, safety equipment, communications systems, accessibility features, and industry best practices may occur. Transit agencies routinely evaluate these advancements before final production to ensure the fleet reflects current operational, safety, and maintenance requirements.

Based on the pre-production review and pilot bus evaluation, OCTA identified several enhancements to improve operator safety, operational performance, and long-term fleet maintainability. These include upgrading the driver barrier to an extended glass configuration to improve operator protection and visibility, installing safety lanyards on the Secure Diagnostic Station window, upgrading the communications antenna system, replacing the standard bicycle rack with a mid-size bicycle rack capable of accommodating fat-tire bicycles, and other minor improvements. These modifications increased the cost of Purchase Order No. C-3-3021 by $130,034 and Purchase Order No. C-3-3022 by $46,508. These modifications do not constitute a cardinal change to the original vehicle design.

The increased sales tax and the incorporation of vehicle enhancements have created a funding shortfall within the existing purchase order budgets. To address the shortfall, staff recommends increasing Purchase Order No. C-3-3021 by $2,368,562 for the procurement of 40 fuel-cell electric buses and Purchase Order No. C-3-3022 by $491,669 for the procurement of ten battery-electric buses.

Procurement Approach

This procurement was handled in accordance with Board of Directors-approved policies and procedures for acquisition through assigned contract rights, also known as piggybacking.

Quoted pricing was obtained from New Flyer for vehicle modifications and enhancements based on OCTA identifying several improvements that would enhance operator safety, improve operational performance, and support long-term fleet maintainability.

The Contracts Administration and Materials Management (CAMM) Department conducted price research and obtained comparable purchase orders, published pricing, OCTA stock pricing, and quotes to determine fair and reasonableness of the quoted price.

For Purchase Order No. C-3-3021, the CAMM Department performed a price analysis using the information available and determined New Flyer’s proposed unit price of $54,806 per bus is approximately nine percent less than the comparable unit price of $60,620 per bus. Therefore, the quoted price is deemed fair and reasonable.

For Purchase Order No. C-3-3022, the CAMM Department also performed a price analysis using the information available and determined New Flyer’s proposed unit price of $55,715 per bus is approximately eight percent less than the comparable unit price of $60,620 per bus. Therefore, the quoted price is deemed fair and reasonable.

Fiscal Impact

This project is included in OCTA’s Fiscal Year 2026-27 Budget, Operations Division, through budget transfer under account nos. 2114-9024-D2116-0UU and 2114-9024-D2116-BCM.

Summary

Based on the information provided, staff recommends the Board of Directors authorize the Chief Executive Officer to negotiate and execute Amendment No. 4 to Purchase Order No. C-3-3021 between the Orange County Transportation Authority and New Flyer of America, Inc., in the amount of $2,368,562, and Amendment No. 3 to Purchase Order No. C-3-3022 between the Orange County Transportation Authority and New Flyer of America, Inc., in the amount of $491,669, for enhancement costs and increased sales tax costs for zero-emission transit buses.

Attachments

A. New Flyer of America, Inc., Purchase Order No. C-3-3021 Fact Sheet
B. New Flyer of America, Inc., Purchase Order No. C-3-3022 Fact Sheet

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