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**Title:** Actions pertaining to Requirements Contract for off-site hydrogen fuel:  
 1. \*\*\*RESOLUTION - Authorizing a sole source Requirements Contract with H2B2 USA LLC., for the purchase of Hydrogen Fuel without Advertised Competitive Bidding (Subject to Mayor's Veto).  
 2. Approve a three-year Sole Source Requirements Contract, with options for two one-year extensions to H2B2 USA LLC., for off-site hydrogen fuel for a total contract amount not to exceed \$3,500,000 (Bid File 9690).

**Sponsors:** Department of Transportation

**Indexes:**

**Code sections:**

**Attachments:** 1. 24-517 Resolution, 2. 24-517 Agreement

Date	Ver.	Action By	Action	Result
5/2/2024	1	City Council	ADOPTED	Pass

**REPORT TO THE CITY COUNCIL**

**FROM:** GREGORY A. BARFIELD, M.A., Director  
Department of Transportation

**BY:** ORIE RUBALCAVA, Projects Administrator  
Department of Transportation

**SUBJECT**

Actions pertaining to Requirements Contract for off-site hydrogen fuel:

- \*\*\*RESOLUTION - Authorizing a sole source Requirements Contract with H2B2 USA LLC., for the purchase of Hydrogen Fuel without Advertised Competitive Bidding (Subject to Mayor's Veto).
- Approve a three-year Sole Source Requirements Contract, with options for two one-year extensions to H2B2 USA LLC., for off-site hydrogen fuel for a total contract amount not to exceed \$3,500,000 (Bid File 9690).

**RECOMMENDATION**

Staff recommends Council approve the award for a three-year Sole Source Requirements Contract, with options for two one-year extensions to H2B2 USA LLC., for off-site hydrogen fuel for a total contract amount not to exceed \$3,500,000 (Bid File 9690).

**EXECUTIVE SUMMARY**

The Department of Transportation/Fresno Area Express (FAX) is pending the delivery of two (2) 40' hydrogen fuel cell electric buses (FCEBs) from New Flyer of America Inc., (New Flyer) to replace vehicles that have exceeded their useful life and to meet compliance with the California Air Resource Board (CARB) Innovative Clean Transit (ICT) regulation. These buses are distinct from other electric buses in that they require hydrogen fuel to operate.

The requirements contract is for three years with two optional one-year extensions, sold on a per kilogram basis in addition to an annual service fee. After extensive market research and discussions with potential suppliers, staff determined that H2B2 USA LLC., (H2B2) is the only supplier within refueling distance and provides the greatest cost and quality benefit.

## **BACKGROUND**

FAX is pending the delivery of two (2) 40' hydrogen FCEBs from New Flyer to replace vehicles that have exceeded their useful life and to meet compliance with CARB's ICT regulation. FAX also anticipates the purchase of additional FCEBs in Fiscal Year 2025, in support of its efforts towards zero emissions. These buses are distinct from other electric buses in that they require hydrogen fuel to operate.

In accordance with Administrative Order 3-3, Sole Source Purchases Over the Formal Bid Limit, the department requesting award of a formal sole source must provide (1) a statement describing every unique or specialized feature, (2) a statement of why the department requires the product in question, (3) description of the department's efforts to locate all possible suppliers, (4) a statement that in spite of its efforts the department has been able to locate only one supplier, (5) a statement of the ultimate cost of the product and the process used to determine the cost, and (6) a finding that it is therefore proper to dispense with the competitive bidding process. To that end, a Request for Information (RFI) was issued on the City's website on September 13, 2023, and viewed by 26 interested parties. The RFI detailed the challenges and concerns that FAX has with hydrogen fuel, as well as requesting information from the industry about potential solutions, safety considerations, supply chains, and fair market costs. On October 13, 2023, three responses to the RFI were received providing FAX with potential solutions and costs information from the industry. Additionally, staff also examined the information made available by the National Renewable Energy Laboratory's National Fuel Cell Technology Evaluation Center, which analyzes the availability and performance of existing hydrogen fueling stations, utilization, station build time, maintenance, fueling, and geographic coverage. These efforts revealed that fuel for FCEBs must meet a hydrogen purity level greater than 99.97% in accordance with Society of Automotive Engineers (SAE) J2719. Additionally, any stationery or mobile fueling equipment would be required to meet the setback requirements of the California Fire Code and National Fire Protection Association (NFPA) 2, which creates challenges in FAX's current location. Given these factors, FAX would require off-site fueling from a source that could meet the needed purity levels and is in proximity to FAX. Currently, the only available hydrogen vehicle fueling stations in the region are in Coalinga, CA and Kerman, CA, of which only the Kerman site is nearby FAX's location. FAX examined H2B2's proposed cost for fuel and through discussions, was able to achieve parity with current market pricing.

Therefore, in spite of FAX's efforts to locate other suppliers, H2B2 is the only supplier within refueling distance that provides the greatest cost and quality benefit to support FAX's inbound fleet.

The requirements contract is for three years with two optional one-year extensions. The hydrogen fuel will be sold on a per kilogram basis at H2B2's facility in addition to an annual service fee for

access to equipment and services provided by the contractor. If invoked, the two optional one-year extensions cost will be fixed at the base pricing and guaranteed production will be negotiated at the time of renewal, for a total contract amount not to exceed \$3,500,000.

The City Attorney has reviewed the Agreement and approved it to form.

### **ENVIRONMENTAL FINDINGS**

By the definition provided in the California Environmental Quality Act Guidelines Section 15378 the award of this contract does not qualify as a “project”; therefore, it is not a project for purposes of the California Environmental Quality Act.

### **LOCAL PREFERENCE**

Local preference was not implemented because of the use of sole source procurement.

### **FISCAL IMPACT**

There is no impact to the General Fund from this action. Expenses for this contract shall be funded through Transportation Development Act (TDA) funds. Sufficient appropriations were included and are available in the FAX FY2024 budget.

Attachments:

Resolution  
Agreement