SUBJECT: Consider recommending that the Interim General Manager take the following actions:

1. Enter into a Contract with Air Products and Chemicals, Inc. for a Temporary Mobile Hydrogen Fueling System at the District's Seminary Division Contingent upon the Negotiation of Terms and Conditions Acceptable to the Interim General Manager and General Counsel;

2. Execute any Amendments to the Existing Hydrogen Supply Agreement with Chevron, Releasing Them from Their Contractual Obligations to Supply Hydrogen Fuel to the District, Provided Chevron Finances the District's Purchase of up to 750 kilograms of Hydrogen Fuel per Week from Air Products and Chemicals, Inc. through September 30, 2010.

RECOMMENDED ACTION:

☐ Information Only  ☐ Briefing Item  ☒ Recommended Motion

Consider recommending that the Interim General Manager take the actions identified in the Subject of this GM Memo.

Fiscal Impact:
Cost neutral: Hydrogen fuel costs up to 750 kilograms per week reimbursed by Chevron Corporation, through September 30, 2010. As of October 1, 2010, the cost of the fuel will be $7.50 per kilogram.

Background/Discussion:
Proposed Amendment(s) to the AC Transit/Chevron Fuel Cell Fueling Contract

AC Transit contracted with Chevron Corporation on March 26, 2004, to provide the District with hydrogen fuel at the Division 4 (Sernany) fueling station, for its three fuel cell buses. The contract expires September 30, 2010. Under the terms of this agreement, Chevron is obligated to continue providing up to 750 kilograms of hydrogen per week through the end of September, with the right to exercise an option to provide fuel from sources other than onsite production, and to dismantle the existing station in advance of the contract termination date. The September 30th date reflects the District's expectation that its new hydrogen fueling station at Division 2 (Emeryville) would be commissioned by October 1, 2010. It now appears that the station will not be completed until sometime later in October.
Chevron has indicated that it wants to exercise its contract option to provide fuel from sources other than onsite production. However, instead of Chevron providing the fuel through a contract with a third-party source, Chevron is requesting that the District directly contract with Air Products and Chemicals, Inc. for hydrogen fuel delivery through the use of a mobile fueler, with Chevron reimbursing the District for the contract costs associated with the use of a mobile hydrogen fueler dispensing up to 750 kilograms of hydrogen per week, through September 30, 2010. The cost of maintaining the existing equipment, much of which is now considered obsolete, makes it desirable for Chevron to pay the cost associated with using a temporary mobile fueling system, as provided by Air Products.

Assuming the District is able to reach agreement with Air Products and Chemicals, Inc. on terms and conditions similar to those negotiated with Chevron Corporation, and the cost of the substitute contract is covered by Chevron, the proposed action will benefit the District’s fuel cell program in several ways: 1) The existing Chevron station utilizes on-site production of hydrogen and is limited in capacity to no more than 150 kilograms of fuel per day, whereas the Air Products fueler is capable of fueling up to 300 kilograms of fuel per day, which will accommodate the growth in the District’s fleet of fuel cell buses as new ones arrive over the next six to eight months, 2) By directly contracting with Air Products and Chemicals, the District can be assured of an un-interrupted supply of hydrogen fuel for its expanded fleet of new fuel cell buses until such time as the new, permanent hydrogen station in Emeryville is opened; 3) Chevron has agreed to cover all operating costs through September 30, 2010, including the non-recurring engineering work and equipment staging, as well as the cost of the fuel, and 4) After September 30, 2010, under the Air Products proposal, the District would only be required to pay for the cost of fuel ($7.50 per kilogram) and not for costs associated with leasing equipment. The rate the District would pay for the fuel beginning October 1, 2010, would be nearly equivalent to the rate the District will pay for fuel at its new, permanent station.

**Sole Source Contract Justification**

Staff is proposing that the District negotiate a sole source contract with Air Products and Chemicals, Inc. for the supply of hydrogen for its fleet of fuel cell buses as indicated above. Under Board Policy 350 (Procurement Policy) section VIII, a sole source (non-competitive) procurement may be used “where the award of a contract is infeasible or impracticable under competitive procedures and ...i. the item is available only from a single source and there is no comparable ‘as equal’ available...”.

There are only four industrial gas suppliers in the United States (Air Products, Air Liquide, Linde, and Praxair) able to produce the quantities and purity of hydrogen fuel required to support the District’s demand for its fleet of fuel cell buses on a temporary basis. Air Products is the only company that has the technology and equipment to provide the fuel the District needs using a temporary mobile fueler.

Chevron Corporation has been active in hydrogen fueling for years. As part of their hydrogen efforts they are very knowledgeable of various fueling technologies and
providers and understand what each technology and provider has to offer. Chevron fully explored all the possibilities of providing the District a temporary fueling operation for a four- or five-month time period, until such time as the District's new, permanent station opens in the fall of 2010. Based on its numerous discussions with hydrogen equipment providers in the United States, only Air Products was found to offer a mobile fueling station. Chevron also found that the pricing Air Products quoted for AC Transit's temporary hydrogen requirements was fully in line with what they have experienced in the past, and accordingly, Chevron is willing to cover the costs.

In addition to Chevron's investigation, AC Transit is a member of the California Fuel Cell Partnership. Staff is aware that the Partnership regularly organizes temporary mobile fueling services in support of public events around the country. Several years ago they participated in a "Drive Across America" demonstration that featured the use of fuel cell cars and mobile fueling along the route. Last year the Partnership organized a fuel cell car rally from the Mexican border to Vancouver, BC, again using mobile fueling stations along the route. In both endeavors the only company able to provide temporary mobile fueling with the quantity and purity of fuel required was Air Products.

Air Products has proposed using two of their proprietary mobile fuelers and a tube trailer, designed to dispense up to 300 kilograms of hydrogen per day – enough to fuel as many as six to 10 buses in rapid succession (the expected fleet size by October 2010). The mobile fueling equipment would in turn be refueled by Air Products' proprietary liquid storage truck, with fuel deliveries made every one to three days. District maintenance staff would be responsible for fueling our buses using Air Products’ equipment, which would be installed at the Seminary Division.

Because the supply of hydrogen to the District's Seminary facility will meet the District's needs, and the use of a mobile fueler is only available from a single source, it is recommended that the Board authorize entering into non-competitive negotiations with Air Products and Chemicals, Inc. for the award of this limited time hydrogen supply contract.

Prior Relevant Board Actions/Policies:
Board Policy 350 (Procurement Policy)

Attachments:
None

Approved by: Mary V. King, Interim General Manager
               Ken Scheidig, General Counsel
               Lewis Clinton, Chief Financial Officer

Prepared by: Jaimie Levin, Director of Alternative Fuels Policy

Date Prepared: June 11, 2010