

**SYSTEM SAFETY AND OPERATIONS COMMITTEE
JANUARY 19, 2012**

SUBJECT: PURCHASE REPLACEMENT BUSES

ACTION: ESTABLISH LIFE OF PROJECT BUDGETS FOR NEW BUSES

RECOMMENDATION

Authorize the Chief Executive Officer to:

- A. Amend CP #201055 (100 Bus Replacements) which was approved by the Board in June 2011, to include an additional 50 forty-five foot Compressed Natural Gas (CNG) buses for the FY13 capital program increasing the current life-of-project budget from \$70,000,000 to \$86,830,211 for an increase of \$16,830,211 which includes project contingency (See Attachment B Funding Plan);
- B. The Board finds that there is only a single source of procurement for forty-five foot CNG buses, and purchase is for the sole purpose of duplicating buses already in use. The Board hereby authorizes the purchase of an additional 50 forty-five foot CNG buses pursuant to Public utility Code section 130237;
Requires Two-Thirds Vote
- C. Execute Contract Option No. 4 to Contract OP33202082 with North American Bus Industries (NABI), to purchase fifty CNG high capacity composite buses for the firm fixed price of \$15,882,711, increasing the Total Contract Value from \$325,442,964 to \$341,325,675, inclusive of sales tax;
- D. Authorize staff to cancel RFP OP33202720 for procurement of 700 replacement buses.

ISSUE

The purchase of 50 additional forty-five foot CNG buses allows Metro to take advantage of deeply discounted Contract options from NABI. Metro purchased 100 forty-five foot

NABI buses in December 2011 under Contract Option No. 3 from existing Contract options Metro holds with NABI. That option exercise was approved by the Board in June 2011 to secure California Transportation Commission (CTC) funding that was set to expire in January 31, 2012. During the negotiation of Option No. 3, NABI made an unsolicited offer that provides Metro with a substantial discount if the total number of vehicles ordered under its Contract options equals 150 vehicles. Metro stands to save \$18,063,589 (21.7%) against the existing Contract option price formulas if all 150 vehicles are ordered.

Furthermore, State Assembly Bill AB1097, that took effect January 1, 2012, allows public agencies conducting federally funded rolling stock procurements to provide evaluation scoring preferences for proposals that exceed the Buy America Requirement of 60% domestic content. Staff recommends implementation of the new law in a new bus procurement for 550 vehicles that would replace the existing 700 Bus Buy RFP.

As a first step, cancellation of the existing 700 bus procurement is recommended to begin planning a new solicitation with reduced bus quantities to reflect Metro bus fleet requirements once the 150 NABI buses are procured, and to plan for the introduction of the new state law. If the action is approved, Metro will develop evaluation criteria that are consistent with AB1097 and will obtain FTA concurrence before releasing the RFP. Once FTA approval is granted, staff will return to the board with a recommendation to approve the release of a new bus "Best Value" RFP procurement. That item will include a summary of the revised evaluation criteria and funding plan for a reduced quantity of vehicles.

DISCUSSION

Contract OP33202082 is a fixed-unit rate contract for the purchase of forty-five foot CNG high capacity transit buses that was awarded on April 24, 2008. The base award for this contract was for 260 buses with options for up to 1,000 buses. Metro has exercised option quantities of 232 buses, including the 100 buses purchased in December 2011. Any additional options must be exercised before May 2013.

In June 2011, the California Transit Commission (CTC) approved a six month extension for \$33.989 million of state funding that was expected to be used for an upcoming RFP for 700 forty-foot CNG buses in FY12-15. This money had originally been granted for forty-five foot replacement buses, and the CTC action required Metro to execute a contract for new buses by January 31, 2012.

In order to secure buses prior to the CTC deadline, Metro asked NABI for pricing on quantities of 50 to 100 buses. In November 2011, NABI made Metro an unsolicited offer to provide a total of 150 buses to be delivered by June 30, 2013 at a discounted price of \$84,142,220. Metro holds the right to reduce the total quantity of vehicles in its Option No. 3 from 100 vehicles to 50 buses, at the regular Contract option price, if the Board rejects staff's recommendation to purchase the additional 50 buses (150 buses

total), cancel the 700 bus procurement, and authority to issue a new 550 vehicle procurement.

Many of the original forty-five foot buses purchased in 2004 are approaching 300,000 miles and aside from some accident damage, there have not been structural issues or defects with these vehicles. To date, Metro has received 392 buses, and these buses have proven to be both durable and economical to operate. The vehicle structure is stronger than a conventional steel frame vehicle and comes with an extended 18 year structural warranty (a standard bus structural warranty is 12 years). In terms of reliability, our new buses continue to be the most reliable bus series in Metro's fleet – since January they have been averaging more than twice as many miles between road-calls as the rest of Metro bus fleet. Finally, 45 foot buses provide 15-20% more passenger capacity than standard forty foot buses. On a life-cycle cost basis staff expects that these new buses will continue to be among the most reliable and cost effective transit vehicles in Metro's bus fleet.

DETERMINATION OF SAFETY

Approval of this board item will result in a positive impact on safety.

Replacing 12 year-old buses that have reached the end of their service life with brand new buses will have a beneficial impact on system safety. New buses will incorporate the latest safety features and systems, and these buses are in brand new operating condition.

FINANCIAL IMPACT

Funding for these buses will be included in the FY12-13 capital program budget under CP #201055, Cost Center 3320, Vehicle Technology. Since this is a multi-year project the Chief Operating Officer and the Project Manager will be responsible for budgeting future year costs for the project.

Impact on Budget

The sources of funds for this procurement are a combination of local and federal funds. These funds are eligible for bus capital and operating. No other sources of funds are considered for this procurement.

NEXT STEPS

If this action is approved, staff will cancel RFP OP33202720 and return to the board in the spring of 2012 with the details of a new RFP for replacement low floor CNG buses in FY14-15. Re-procuring for replacement buses in FY14-15 has two potential advantages; first there is a strong likelihood of increased competition and second, new state requirements that consider additional "Buy America" content can be implemented.

Staff will also plan to exercise contract options in contracts OP33202167 and OP33202168 with Vehicle Technical Consultants, Inc. to cover bus inspection services at NABI's production facilities in Kaposvar, Hungary and Anniston, Alabama. The total amount of these contract options is projected to be less than \$200,000 for these buses.

ATTACHMENTS

- A. Procurement Summary
- B. Funding Plan

Michelle Lopes Caldwell

Michelle Lopes Caldwell
Chief Administrative Services Officer

Lonnie Mitchell

Lonnie Mitchell
Chief Operations Officer

Arthur T. Leahy

Arthur T. Leahy
Chief Executive Officer

PROCUREMENT SUMMARY

PURCHASE BUSES WITH STIMULUS FUNDING

1.	Contract Number: OP33202082	
2.	Recommended Vendor: North American Bus Industries	
3.	Type of Procurement (check one): <input type="checkbox"/> IFB <input checked="" type="checkbox"/> RFP <input type="checkbox"/> RFP-A&E <input type="checkbox"/> Non-Competitive <input checked="" type="checkbox"/> Modification <input type="checkbox"/> Task Order	
4.	Procurement Dates:	
	A. Issued: NA	
	B. Advertised/Publicized: NA	
	C. Pre-proposal/Pre-Bid Conference: NA	
	D. Proposals/Bids Due: NA	
	E. Pre-Qualification Completed: NA	
	F. Conflict of Interest Form Submitted to Ethics: November 8, 2010	
	G. Protest Period End Date: NA	
5.	Solicitations Picked up/Downloaded: NA	Bids/Proposals Received: NA
6.	Contract Administrator: Joe Marzano	Telephone Number: (213) 922-7014
7.	Project Manager: John Drayton	Telephone Number: (213) 922-5882

A. Procurement Background

This Board Action is to exercise Contract Option No 4 to purchase fifty low floor CNG buses under Contract No. OP33202082.

Contract No. OP33202082 is a Firm Fixed Unit Rate Contract.

Fourteen (14) Contract Modifications have been issued since the Contract was executed in June 2008. Modification No. 4, 9 and 14 were for 41, 91 and 100 option vehicles respectively; Modification No.'s 2, 5, 7, 8, 11 and 12 were issued to make minor bus configuration changes, Modification No. 3 and 6 were issued to purchase bus diagnostic test equipment and Modification No. 1, 10 and 13 modified the progress payment schedule, added ARRA funding terms and conditions and extended the delivery schedule for Option No. 2 vehicles respectively.

B. Evaluation of Proposals/Bids

NABI submitted an unsolicited offer to staff on October 31, 2011 for Metro to consider. Within their offer, NABI proposed a significant discount for 45' buses if Metro purchases 150 vehicles from available Option quantities as described in Contract OP33202082. After reviewing the offer, staff determined that the prices offered reflect a savings of approximately \$18 million or 21.7% when compared to existing contract pricing.

C. Cost/Price Analysis Explanation of Variances

The exercise of an option as a sole source requires a cost analysis which is currently being conducted by Metro's Management Audit Services. Due to the significant discount being offered by NABI, staff expects that the determination and findings of the cost analysis will conclude that the prices offered are fair and reasonable. In the event that the cost analysis findings are unfavorable to Metro, contract terms and conditions have been included in Option No. 4 that will allow Metro to re-negotiate the prices offered based on the results of the cost analysis.

D. Background on Recommended Contractor

The recommended firm, North American Bus Industries (NABI) has manufacturing facilities in Budapest and Kaposvar, Hungary and Anniston, Alabama. NABI has been in business for nineteen years, and is a leader in the manufacturing and delivery of mass transit buses. NABI currently produces approximately 700 buses per year and has the capacity to produce up to 1,000 buses per year. Its production capabilities include 30-60 foot steel frame buses, and 30-45 foot composite buses.

NABI has previously delivered 875 forty-foot CNG buses for Metro. The firm also produced 492 composite structure forty-five foot CNG buses and 391 sixty-foot articulated CNG buses for Metro. Bus quality and reliability have been very good. In addition, the company has produced buses for many other major transit agencies. NABI has a local support-services facility in Ontario, CA. In early 2006, NABI was acquired by Cerberus Capital Management, L.P., a U.S.-based private equity fund. Subsequently, NABI purchased Optima Bus Corporation and Cerberus most recently purchased Blue Bird Corporation, another transit bus manufacturer. The company is well capitalized and there is a low financial or performance risk with this company.

E. Small Business Participation

The Diversity & Economic Opportunity Department did not recommend a Disadvantaged Business Enterprise (DBE) participation goal for this bus procurement. The Federal Transit Administration (FTA) requires that each Transit Vehicle Manufacturer (TVM) submit for approval an annual percentage overall goal. The TVM goal is based on the amount of federal funding to be received by the TVM for transit vehicle contracts during the fiscal year. In compliance with 49 CFR Part

26.49, TVMs report directly to FTA. Therefore, compliance with the DBE requirements is monitored at the federal level.

F. All Subcontractors Included with Recommended Contractor's Proposal

	Subcontractor	Services Provided
1.	FAB Industries	CNG Fuel Systems

FUNDING PLAN FOR 45' BUSES

Bus Purchase CP 201053 (FY12-13)

Sources of funds (\$millions)	FY12	FY13	Total
CMAQ			
Clean Fuel 5309			
PC 40%		38,550,000	38,550,000
TDA4			
FTA Grant		9,730,211	9,730,211
CA State CTC Funding			
Prop 1B Funding		38,550,000	38,550,000
Local Funding			
Total		\$86,830,211	\$86,830,211

Uses of funds (\$millions)	FY12	FY13	Total
Acquisition		\$84,142,220	\$84,142,220
Pro Services		250,000	250,000
Labor		600,000	600,000
Travel		275,000	275,000
Spare Parts		562,991	562,991
Contingency		1,000,000	1,000,000
Total		\$86,830,211	\$86,830,211

