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Metro

Date: July 20, 2007

To: Board of Directors

Through: Roger Snoble
Chief Executive Officer

From: Carol Inge
Chief Planning Officer

Subject: **Item 9 – FY 08 Transit Fund Allocations – Response to Director Katz's Questions at July 2007 Planning & Programming Committee Meeting**

Below is staff's response to Director Katz's questions at the Planning & Programming Committee Meeting.

1. **Why did we fund the Metro bus purchase with Prop C 40%?**

   The board approved the use of Prop C 40% Discretionary funds for bus purchases, a capital use, in April 2007 (see attached Board Report). Our rationale was that borrowing would have used more operating eligible cash during the 10-year forecast period thereby increasing the deficit.

2. **Couldn't we have used this Prop C 40% for lessening the fare increase?**

   Yes, as a matter of eligible uses, we could have. However, Metro Operations has other important near-term capital needs that have to be addressed before they begin to significantly impact the service that we provide. If we did not put the Prop C 40% (PC 40%) Discretionary money on the bus purchase, we would have put the money on these other Metro Ops capital needs first. If we did not have to put the PC 40% money on these other capital needs, then we would have used the money to address other Metro bus operating expenditures and needs. The PC 40% money applied to the bus purchase and now proposed to be swapped with Santa Monica is our share of the PC 40% that comes to us through the Formula Allocation Procedure (i.e., funding through programs such as BSIP, Foothill Mitigation and MOSIP). These are not "excess" funds, but are an integral part of strategically balancing our annual budget.

3. **What happens to the FTA grant if we don't do the swap?**

   Technically, Santa Monica would have three years to use the money or Metro would redistribute the money to all other operators eligible to receive Federal Transit Act Section 5307 funds, so that the Federal Government does not take back any remaining balance from a particular annual appropriation. However, this has not happened to any of our operators because of our coordination with the Federal Transit Administration (FTA) on outstanding Section 5307 balances (see next question and response). We are responsible for managing the Section 5307 balances, from old and new Congressional appropriations, for Los Angeles County.

4. **Will the FTA grant lapse, and if so, when?**

   Technically, the federal funds could "lapse" as early as September 30, 2009. However, Metro has very successfully worked with the FTA to ensure that "older" appropriated Section 5307 funds are drawn down for the LA area by having Metro draw downs (our allocations and draw downs are much larger by comparison to any other LA operators) apply to the earliest appropriations and transferring the newest appropriations over to those who would have lapsed their funds. We draw down Section 5307 funds for Metro as early and as often as we can to have a better balance of newer appropriations.

5. **If the FTA money lapses, where does it go or what happens to it?**

   Technically, any Section 5307 money that lapses is taken back by the FTA for their disposal. Again, we have not let that happen due to our successful work with the FTA.

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REVISED
OPERATIONS COMMITTEE
APRIL 19, 2007

SUBJECT: ARTICULATED BUS OPTIONS

ACTION: ESTABLISH LIFE-OF-PROJECT BUDGET FOR FY08 CAPITAL PROGRAM BUS PROCUREMENT

RECOMMENDATION

Authorize the Chief Executive Officer to:

A. Establish a life-of-project budget for the purchase of up to one-hundred sixty-foot Compressed Natural Gas (CNG) high capacity articulated buses for the FY08 capital program including project contingency in the amount of ~~$86,428,426~~ $86,427,426. (See Attachment B Funding Plan).

B. Negotiate and execute Contract Option No. 2 to Contract No. OP33200646 with North American Bus Industries (NABI), to purchase up to one-hundred additional sixty-foot CNG high capacity articulated buses including the cost of fareboxes and Advanced Transportation Management System (ATMS) radio system, increasing the Total Contract Value from $221,734,831 to ~~$306,163,257~~ $306,162,257, inclusive of sales tax.

C. Authorize staff to negotiate and execute modifications for this procurement in an amount not to exceed$2,000,000, increasing the Total Contract Value from ~~$306,163,257~~ $306,162,257 to ~~$308,163,257~~ $308,162,257.

RATIONALE

This action establishes the budget authority necessary to proceed with scheduled vehicle replacement plans in FY08. As required in Metro's financial policies, this project exceeds $5 million, and this action is necessary to program funds required for this procurement. These funds are currently included in both Metro's Long Range Transportation Plan, and in Metro's five year capital plan. These buses are also included in Metro's Fleet Management Plan.

Contract OP33200646 is a fixed-unit rate contract for the purchase of 200 sixty-foot low-floor CNG high capacity articulated transit buses that was awarded on February 27, 2003. The first option for 94 additional buses was authorized in September 2005, and these buses are currently being delivered to Metro. To date, these vehicles have proven to be reliable and a cost effective option for Metro's highest ridership lines. Metro's current fleet replacement plans and Consent Decree commitments are built around adding these high capacity buses in FY08.

Since the original contract award in 2003, the indexed option pricing has risen over 21%, and the base vehicle price has risen from $634,000 to almost $770,000. The total contract option price now exceeds budgetary assumptions, so staff will be responsible for re-negotiating the quantity and/or pricing of these vehicles to ensure that this project does not exceed the amount of funding programmed.

IMPACTS TO OTHER CONTRACTS

Staff will exercise a contract option in contract OP33201516 with First Transit Inc. for an amount not to exceed $250,000 to provide on-site bus inspection services for these new articulated vehicles. This cost is included as part of the Life of Project Budget.

FINANCIAL IMPACT

Funding for the buses will be included in the FY08 capital program budget under project number, 201044, FY08 Bus Procurement, cost center #3320, Vehicle Technology. The identified funding is a combination of federal, state and local funds. The attached funding plan is provided as a management guide, however, the Chief Executive Officer retains the authority to substitute funding and modify the cash flow as required to meet project needs.

ALTERNATIVES CONSIDERED

Staff considered not purchasing buses. This action is not recommended because cancelling or deferring this procurement will necessitate extending the life of over 130 of Metro's oldest diesel fueled vehicles that are scheduled for retirement in FY08.

Staff considered initiating a new procurement solely for 45' buses. This option is not recommended for FY08 because it is not expected that a vendor could provide enough 45' vehicles in time to guarantee buses were here before the beginning of FY09. Staff is currently evaluating the option of procuring 45' composite buses for FY09.

Staff considered initiating a new procurement for 40' buses. This action is not recommended as Metro's budgets are built on operating efficiencies that are realized by adding higher capacity buses to the fleet.

ATTACHMENTS

A. Procurement Summary
A-1 Procurement History
A-2 List of Subcontractors
B. Life of Project Budget for Articulated Buses

Prepared by: Richard Hunt, General Manager, San Fernando Valley Service Sector
John Drayton, Manager of Vehicle Technology

Carolyn Flowers

Carolyn Flowers
Interim Chief Operations Officer

Roger Snoble
Chief Executive Officer

BOARD REPORT ATTACHMENT A
PROCUREMENT SUMMARY

EXERCISE OPTION FOR UP TO 100 LOW-FLOOR SIXTY-FOOT CNG HIGH CAPACITY ARTICULATED TRANSIT BUSES

1.	Contract Number: OP33200646		
2.	Recommended Vendor: North American Bus Industries		
3.	Cost/Price Analysis Information:		
	A. Bid/Proposed Price: NA	Recommended Price: Not to Exceed ~~$86,428,426~~ $86,427,426(Including fareboxes or ATMS radios)	
	B. Details of Significant Variances are in Attachment: NA		
4.	Contract Type: Fixed Unit Rate		
5.	Procurement Dates:		
	A. Issued: NA		
	B. Advertised: NA		
	C. Pre-proposal Conference: NA		
	D. Proposals Due: NA		
	E. Pre-Qualification Completed: NA		
	F. Conflict of Interest Form Submitted to Ethics: March 17, 2007		
6.	Small Business Participation:		
	A. Bid/Proposal Goal: 0%	Date Small Business Evaluation Completed: Not applicable	
7.	Invitation for Bid/Request for Proposal Data:		
	Notifications Sent: NA	Bids/Proposals Picked up: NA	Bids/Proposals Received: NA
8.	Evaluation Information:		
	A. Bidders/Proposers Names: NA	<u>Bid/Proposal Amount:</u> NA	<u>Best and Final Offer Amount:</u> NA
	B. Evaluation Methodology: Describe Methodology Details that are in Attachment A-1		
9.	Protest Information:		
	A. Protest Period End Date: NA		
	B. Protest Receipt Date: NA		
	C. Disposition of Protest Date: NA		
10.	Contract Administration Mgr: Margaret E. Merhoff	Telephone Number: 922-1073	
11.	Project Manager: John Drayton	Telephone Number: 922-5882	

BOARD REPORT ATTACHMENT A-1
PROCUREMENT HISTORY

EXERCISE OPTION FOR UP TO 100 LOW-FLOOR SIXTY-FOOT CNG HIGH CAPACITY ARTICULATED TRANSIT BUSES

A. Background on Contractor

North American Bus Industries (NABI) was established in 1992. It has manufacturing facilities in Budapest and Kaposvar, Hungary; and Anniston, Alabama. NABI currently produces approximately 500 buses per year, and has the production capacity to produce approximately 1000 buses per year. Its production capabilities include 30 – 60-foot steel-frame buses, and 30 – 45 foot composite buses.

NABI has previously delivered 875 40-foot CNG buses for Metro. The firm also produced 100 composite 45-foot CNG buses and 200 sixty-foot articulated CNG buses for Metro. They are now completing the first option order of 96 additional sixty-foot articulated 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.

B. Procurement Background

On June 14, 2002, IFB No. OP33200646 was issued and advertised. Three proposals were received. As a result of the technical and price evaluation, the resulting contract was awarded to NABI. The contract contains options for up to 400 additional CNG vehicles. The options are valid until May 27, 2008. To be able to exercise the option without it being considered a sole source, Metro must consider option pricing when an award is made. In this case, the pricing for option buses is based on the increase or decrease in the Producer Price Index for Bus and Truck Bodies (PPI) that occurred since the contract award. The use of the PPI complies with the option pricing requirement as all submitted pricing would be treated in the same manner.

As required by Metro's Procurement Policy, staff must also determine that the option pricing is reasonable. It was determined that only a few additional orders have been placed for similar 60-foot CNG buses since the award of this contract. The original pricing of $632,914 per vehicle was determined to be reasonable based on a price analysis. During the period since the contact award, the PPI has increased 21.54% or $136,349 per bus. Based on the PPI increase, the base price for each option bus will total $769,263 not including approved modifications, delivery and sales tax. This pricing was compared to a recent pricing paid by Foothill Transit for thirty-two CNG in articulated vehicles in early 2006. At that time, the base bus price not including modifications was $741,741.

Along with normal parts prices increases, a 10% increase was issued in 2005 for all steel products. Thus, the proposed PPI pricing of $769,263 appears reasonable. This figure does not include the cost for the provision and installation of the fareboxes and ATMS radio system, delivery, sales tax, or other previously approved contract modifications. When those figures are included, the price of each bus could total $901,307 per vehicle or $90,130,679 for 100 vehicles. As this figure exceeds the available funding, staff will either adjust the number of vehicles being ordered or will negotiate a reduction in pricing to insure that the final total price does not exceed budgeted funding.

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.

C. Evaluation of Proposals

Not applicable.

D. Cost/Price Analysis Explanation of Variances

The recommended increase of not to exceed $901,307 per vehicle has been determined to be fair and reasonable based upon price analysis derived from comparable historical pricing for similar buses and equipment.

BOARD REPORT ATTACHMENT A-2
PROCUREMENT SUMMARY
LIST OF SUBCONTRACTORS

Prime Contractor: North American Bus Industries

Small Business Commitment	**Other Subcontractors**
NA	FAB Industries

Total Commitment
0%

ATTACHMENT B
FY08 FUNDING PLAN FOR ARTICULATED BUSES

Articulated Bus Purchase CP 201030

Sources of funds ($millions)	~~FY07~~	FY08	~~FY09~~	Total
CMAQ		~~32,681,426~~ 30,781,000		~~32,681,426~~ 30,781,000
~~Clean Fuel~~ Federal Section 5309		~~4,000,000~~ 1,500,000		~~4,000,000~~ 1,500,000
PC 40%		~~43,786,000~~ 45,686,861		~~43,786,000~~ 45,686,861
TDA4		~~5,960,000~~ 4,089,565		~~5,960,000~~ 4,089,565
PC5% Security		4,370,000		4,370,000
Total		86,427,426		86,427,426

Uses of funds ($millions)	~~FY07~~	FY08	~~FY09~~	Total
Acquisition		83,427,426		83,427,426
Pro Services		350,000		300,000
Labor		450,000		500,000
Travel		200,000		200,000
Spare Parts				
Contingency		2,000,000		2,000,000
Total		86,427, 426		~~86,291, 426~~ 86,427,426

As of April 13, 2007

Item 43

CNG Articulated Bus Options

CNG Articulated Bus Options

At the Operations Committee meeting, Director Parks asked staff to clarify two issues:

1. Could debt financing be used for this procurement?

2. How would delaying this procurement affect the delivery of the buses?

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Articulated Bus Options – Debt Financing

- $49.7 million in the project funding plan is eligible for bus operations.
- OMB estimates that using debt financing this will add $19.6 million additional costs to the project bringing the total to $105.6 million.

Metro

Articulated Bus Options – Debt Financing

- **Alternatives include:**
  - buying fewer buses while maintaining the current project budget. This is not recommended because we will not meet our consent decree fleet requirements.
  - Increase the current project budget to include debt financing costs. This is not recommended because it will increase the 10 year forecast structural deficit.

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Articulated Bus Options – Delayed Contract NTP

- NABI has indicated that with a mid May NTP, Metro will begin receiving the buses in early fall 2007, with complete delivery by December 2007.
- NABI has indicated that delaying the NTP past mid May will delay the delivery of the buses for up to two years.
  - Under the terms of the contract, NABI has up to three years to deliver buses without penalty.

Articulated Bus Options – Delayed Contract NTP

- Delaying the NTP & delivery of the buses will impact the consent decree commitments to:
  - Implement the remaining Rapid service by 2008
  - Expand seat capacity by 2010.
- Delaying the NTP could possibly result in increased costs due to contract CPI increases.

Conclusion

Because of the increased project costs and the impact on our consent decree commitments, we recommend that the Board proceed with and approve the staff recommendation to procure the CNG Articulated buses.

Parks Motion

Item 43 - CNG Bus Purchase

MTA Operations Committee

April 19, 2007

I MOVE THAT the Board forward this item to the April 30 Board meeting without recommendation and direct the CEO to report back on:

- the feasibility of debt financing this procurement and

- how the delivery of the buses would be impacted if the purchase is delayed until the FY08 budget hearing