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Metropolitan Transportation Authority

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**SPECIAL BOARD MEETING
APRIL 30, 2012**

SUBJECT: LIGHT RAIL VEHICLE PROCUREMENT

ACTION: AWARD CONTRACT FOR PROCUREMENT OF LIGHT RAIL VEHICLES

RECOMMENDATION

- A. Authorize the Chief Executive Officer to award a 53 month, firm fixed price contract under Request for Proposal No. P3010, to Kinkisharyo International, LLC for the manufacturing and delivery of 78 light rail vehicles (LRV), in the amount of \$299,061,827 for the base contract buy, exclusive of four contract options totaling 157 LRVs.
- B. Authorize the Chief Executive Officer to negotiate and execute up to four contract options to Contract P3010, for a total delivery of up to 157 LRVs, in an aggregate amount of \$591,080,448, for a total contract not-to-exceed amount of \$890,142,275, not including allowable contract escalation.
- C. Approve an increase of \$6,940,000 in the life-of-project budget for CP#206035 – Light Rail Vehicle Procurement (P3010) from \$335,410,000 to \$342,350,000.
- D. The Board finds that the award to Kinkisharyo International is made to the Proposer that provides the agency with the best value and is most advantageous to Metro. The recommended price addresses all contract requirements and represents the best overall value when all RFP evaluation factors are considered, including clear advantages in technical compliance, schedule risk and project management. The offer also commits to the sizable creation of new U.S. jobs to produce the P3010 LRV.

ISSUE

The Board authorized staff to issue a federally funded solicitation for a “Best Value” LRV procurement for additional vehicles as required for Measure R light rail projects including Exposition Phase 2, Foothill Phase 2B Extension, and Crenshaw lines, and for the eventual replacement of the Metro Blue Line fleet consisting of 69 LRVs that will have reached the end of their revenue service life by end of 2018.

Staff’s recommendation presents the firm that is most advantageous to Metro in spite of the fact that Kinkisharyo International is not the lowest price offerer. Kinkisharyo

International's offer represents the Best Value to Metro when all technical and price factors presented to the Board on October 28, 2010 and further defined in RFP P3010 are carefully considered. The Procurement Summary of this report (Attachment A) further describes the evaluation results and detailed rankings for all Proposers, including the weighted scores associated with each evaluation criteria.

DISCUSSION

The P3010 LRV procurement is essential to the success of Measure R initiatives, including providing the rolling stock for the on-time opening of the Expo Phase II, Foothill Extension, and Crenshaw rail lines. This procurement is also consistent with the Draft August 2011 Rail Fleet Management Plan submitted to the Federal Transit Administration (FTA) Project Management Oversight Team.

The LRV Contractor selection has progressed over a 16-month period from the date of Board approval of the solicitation and has followed a Best Value solicitation process. The primary objective of the source selection is to obtain safe, reliable, high quality LRVs delivered on time and within budget, and to create new manufacturing and assembly jobs in the United States that can be tied directly to the P3010 Contract.

To prevent a repeat of the problems experienced with the P2550 LRV procurement, which followed the low-bid procurement methodology and resulted in schedule delays, meager contractor project management and varying quality; the Metro Board approved a Best Value solicitation process to use other relevant factors, in addition to price, to identify the Best Value rail car manufacturer.

An integral part of the Best Value solicitation is the assembly of the Source Selection Committee (SSC) consisting of key Metro Operations staff to conduct a comprehensive evaluation of the proposals received. The committee reviewed the proposals and evaluated four key factors, weighted in descending levels of relative importance: 1) Experience and Past Performance, 2) Price, 3) Technical Compliance and 4) Project Management Experience. Metro also used its U.S. Employment Program as a Best Value trade-off analysis factor against the Price criterion. All three proposals were in compliance with RFP requirements and determined to be within the Competitive Range.

Upon Board approval and the completion of a Pre-Award Buy America compliance audit, a Notice-to-Proceed (NTP) is expected immediately after Board approval. Delivery of the 78 base contract LRVs is scheduled to be completed 53 months following NTP, approximately by August 2016. The Contract contains four options, which, if exercised, will extend the contract three years beyond the base order. The options will be awarded subject to adequate funding and Board approval. The delivery rate is an aggressive four LRVs per month. The required delivery dates have liquidated damage assessments that can be imposed for late deliveries.

Options 1 through 4 for 28, 39, 21 and up to 69 LRVs, respectively, may be exercised in any order as long as the Option expiration ordering dates are followed. The order for the first option may be placed not later than 34 months following NTP, the order for the second option may be placed not later than 42 months following NTP, the order for the third option may be placed not later than 48 months following NTP and the order for the fourth option may be placed not later than 59 months following NTP.

The options are priced in 2012 dollars and are subject to escalation based upon the Producer Price Index for Railroad Rolling Stock Manufacturing published by the United States Department of Labor.

Lessons-learned from experience with the P2550 LRV procurement has resulted in staffing this LRV project utilizing experienced Metro Project Management personnel to oversee and manage the commercial and technical program elements, augmented by experienced Technical and Project Management consulting staff. Staff has also adequately budgeted necessary travel expenses to ensure performance of the Contractor and their most important subcontractors remain on schedule and within specification requirements.

Lessons-learned also requires an increase of the LOP budget by \$6.94M to \$342.3M to enhance consultant services to focus primarily on program management oversight.

A program partnering approach will be implemented to further ensure program success:

1. Program leadership provided by Metro Project Management with experienced consultant staff to assist with the decision making.
2. Manage stakeholders to think, work, and act towards timely delivery of the LRVs to meet schedule, weight, safety, reliability, with high quality standards.
3. Ensure Operations and Maintenance ownership by including in decision-making.

U.S. EMPLOYMENT PROGRAM

In May 2011 the FTA approved the use of Metro's unique U.S. Employment Program. Staff employed the U.S. Employment Program to incentivize Proposers to create new jobs in the United States by incorporating new job creation as a function of the Best Value evaluation process. Staff's goal of creating meaningful new U.S. jobs was achieved, as evidenced by the fact that the recommended Awardee, Kinkisharyo, commits to creating new jobs in the U.S. totaling \$97.9 million in wages and benefits, with a full economic impact of \$138.8 million on the U.S. economy. The value for new jobs committed by Kinkisharyo equates to 554 Job Years for the base Contract, and 1,614 Job Years for the base and contract options.

The employment program allows Metro to perform a price trade-off analysis for the value of all new jobs created directly by LRV production, including the use of an economic multiplier to assess the full impact on the U.S. economy of all new jobs

proposed. The trade-off process consists of deriving the aggregate dollar value of the proposed new jobs' salaries and benefits, after applying an economic multiplier. That total jobs value was then traded off (subtracted), dollar for dollar, against each Proposer's price. This yielded a reduced proposal price for only evaluation purposes. That subsequent evaluation price was then scored using the evaluation scoring weight for the Price criterion.

DETERMINATION OF SAFETY IMPACT

- The P3010 LRVs will be designed to current design criteria meeting all local, State, and Federal safety standards.
- Exercising the options will allow Metro to replace light rail vehicles that have reached the end of their revenue service life.

FINANCIAL IMPACT

The funding of \$36,531,006 for this project is included in the FY12 budget in cost center 3940, Rail Fleet Services, under project 206035, Expo/Blue Line Light Rail Vehicle Procurement. Since this is a multi-year project, the Executive Officer, Rail Vehicle Maintenance, will be accountable for budgeting the cost in future years, including any options exercised.

ALTERNATIVES CONSIDERED

As the Measure R projects require a definite need for more LRVs, the primary alternative considered was in the method of procurement. On October 28, 2010, the Board approved a competitively negotiated Best Value procurement for new LRVs to evaluate the overall combination of past performance, technical capability, quality, price and other elements of a proposal, including a trade-off of U.S. job creation. This approach will provide the greatest overall procurement value and probability of vehicle delivery success.

As an alternative, the Board may choose not to move forward with the procurement. This alternative is not recommended as the Measure R light rail transit projects must have LRVs for testing and revenue operations.

NEXT STEPS

Within a month following contract award, Metro will meet with Kinkisharyo, LLC for the Contract required Specification Review Meeting. During same meeting, Metro will establish communication and reporting protocols. Key milestones and deliverables, through the shipment of the first two pilot cars and delivery of the first two production cars, will be discussed to ensure understanding and agreement of requirements to ensure expedient reviews and approvals.

ATTACHMENTS

- A. Procurement Summary
- B. Funding/Expenditure Plan
- C. Metro Board Report, dated October 21, 2010
- D. Metro Board Report, dated January 21, 2010

Prepared by: Jesus Montes, Director, Rail Vehicle Acquisition and Maintenance
Victor Ramirez, Director, Contract Administration

Michelle Lopes Caldwell

Michelle Lopes Caldwell
Chief Administrative Services Officer

[Signature]

Frank Alejandro
Chief Operations Officer

[Signature]

Arthur T. Leahy

Arthur T. Leahy
Chief Executive Officer

PROCUREMENT SUMMARY

P3010 LIGHT RAIL VEHICLE PROCUREMENT

| | | |
|----|--|-----------------------------------|
| 1. | Contract Number: P3010, New Light Rail Vehicles | |
| 2. | Recommended Vendor: Kinkisharyo International, LLC | |
| 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 type="checkbox"/> Modification <input type="checkbox"/> Task Order | |
| 4. | Procurement Dates: | |
| | A. Issued: November 1, 2010 | |
| | B. Advertised/Publicized: October 31, 2010 and December 1, 2010 | |
| | C. Pre-proposal/Pre-Bid Conference: November 19, 2010 | |
| | D. Proposals/Bids Due: April 11, 2011 | |
| | E. Pre-Qualification Completed: March 9, 2012 | |
| | F. Conflict of Interest Form Submitted to Ethics: January 27, 2012 | |
| | G. Protest Period End Date: March 27, 2012 | |
| 5. | Solicitations Picked up/Downloaded: 267 | Bids/Proposals Received: 3 |
| 6. | Contract Administrator: Victor Ramirez | Telephone Number: 213-922-1059 |
| 7. | Project Manager: Jesus Montes | Telephone Number: 213-922-3293 |

A. Procurement Background

On January 28, 2010 the Board authorized the use of a "Best Value" procurement to solicit this rail car requirement in accordance with Public Utility Code 130238. The Board then approved the specific relative weighting of the evaluation criteria to be used for P3010 on October 28, 2010. This Board Action is for a "Best Value" Request for Proposals (RFP) solicitation issued to procure up to 235 New Light Rail Vehicles (LRV), including a base purchase of 78 LRVs.

The RFP was issued in accordance with Metro's Acquisition Policy and the contract type is Firm Fixed Price.

Twenty-three amendments were issued during the solicitation phase of this RFP; amendment Nos. 1, 6, 8 and 21 were issued to modify proposal due dates; amendment No. 2 was issued to provide information concerning the RFP Pre-

Proposal Conference; amendment Nos. 3, 4, 5, 7 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 22 and 23 were issued to provide answers to questions posed by interested parties, and to modify RFP technical specification requirements and commercial terms; amendment 16 modified the Instructions to Proposers section of the RFP; and, amendment No. 20 invited Proposers in the Competitive Range to submit Best and Final Offers.

A total of three proposals were received on April 11, 2011, after staff responded to 349 technical and commercial questions from interested parties.

B. Evaluation of Proposals/Bids

A Source Selection Committee (SSC) consisting of staff from Rail Vehicle Acquisition and Maintenance, Rail Fleet Services, Wayside Systems, and Service Operations was convened and conducted a comprehensive evaluation of the proposals received. The SSC also held direct interviews with each Proposer and performed manufacturing and engineering site surveys to fully assess the Proposers' capabilities, capacities, strengths and weaknesses.

The proposals were evaluated based on the following evaluation criteria and weights:

- | | |
|-----------------------------------|------------|
| • Experience and Past Performance | 40 percent |
| • Price | 30 percent |
| • Technical Compliance | 20 percent |
| • Project Management Experience | 10 percent |

The evaluation criteria described above was presented to the Board in October 2010 and approved prior to the RFP issuance. The most important factors considered in developing the relative weighting of the evaluation criteria were based on lessons learned from Metro's previous LRV procurement. It was determined that the best approach to assess probability of on-time performance for delivery of the rail cars was to measure all Proposers' historical performance as a leading indicator of future success. This approach was applied not only to schedule adherence, but also to reliability, weight compliance, quality and change orders.

In May 2011, the FTA provided Metro with approval to use a U.S. Employment Program as a Best Value trade-off analysis factor against the Price criterion. This trade-off consisted of taking the dollar value of all new jobs proposed and applying an Economic Multiplier to assess the full impact of those jobs on the U.S. economy. This assessed U.S. jobs value was then used to reduce each Proposer's price on a dollar for dollar basis to establish an evaluation Price for scoring purposes.

All three Proposers who submitted proposals were determined to be within the Competitive Range. The three firms within the competitive range are listed below in alphabetical order:

1. CAF USA, Inc.
2. Kinkisharyo International, LLC
3. Siemens Industry, Inc.

The SSC interviewed all Proposers in Los Angeles from June 21 -29, 2011, and performed manufacturing site visits from July 18, 2011 through August 4, 2011. The firms' project managers and key team members had an opportunity to present each team's qualifications and respond to the evaluation committee's questions. In general each team's presentation addressed the requirements of the RFP, experience with all aspects of the required tasks, and stressed each firm's commitment to the success of the project. Also highlighted were staffing plans, manufacturing plans, schedules and perceived project issues. Each team was asked questions relative to each firm's proposed staff, capability, manufacturing capacity, facility development, new job training, job creation and previous experience implementing their proposed manufacturing plan.

Qualifications Summary of Firms Within the Competitive Range:

CAF USA Inc.

CAF has over 100 years of operational experience in the rolling stock industry supplying multiple types of rail transit vehicles world-wide. CAF USA's most recent clients include the Port Authority of Allegheny County (Pittsburgh PA), Sacramento Regional Transit, Bilbao, Spain, and Vitoria, Spain, where they provided LRVs.

CAF's proposal strengths include lowest price offer and a worldwide range of vehicle platforms that attest to deep engineering resources and capability. However, CAF's past performance in the U.S. market, their technical compliance and project management team proposed for P3010 were not as strong as the recommended Awardee.

Kinkisharyo International, LLC.

Kinkisharyo has provided urban transit vehicles world-wide since 1984. Kinkisharyo International's most recent clients include Dallas Area Rapid Transit, Washington Sound Transit (Seattle), and Valley Metro Rail (Phoenix). Kinkisharyo International has the unique distinction of having delivered every U.S. transit vehicle on time.

The SSC found Kinkisharyo's strengths to be in their past performance and experience, technical capability and project management. As the recommended Awardee, Kinkisharyo ranked highest in all evaluation categories except price. They also propose a U.S. Employment commitment that is within 2% of the highest offer

for new U.S. job creation. Kinkisharyo International's Project Manager has extensive rail car experience in the U.S., having led projects in Seattle, Dallas and Boston. He has over twenty years of experience in the project management of light and heavy rail transit vehicles.

Siemens Industry, Inc.

Siemens Industry has manufactured the highest quantity of LRVs in North America; having delivered more than 1100 LRVs. Their list of clients includes San Diego, St. Louis, Denver, Salt Lake City, and the P2000 car in Los Angeles. The P2000 car has been in operation at Metro since 2001.

Siemens's greatest strength is in their U.S. Employment plan. Siemens offered the highest new U.S. job commitment. Although Siemens was three years late in delivering the P2000 vehicle to Metro, Siemens has since improved their schedule performance record. However, the overall past performance, technical compliance and project management elements of their offer were deemed by the SSC to be not as strong as the recommended Awardee.

| 1 | FIRM | Average Score | Factor Weight | Weighted Average Score | Rank |
|----|---|---------------|----------------|------------------------|----------|
| 2 | CAF USA Inc. | | | | |
| 3 | Experience and Past Performance | 73.00 | 40.00% | 29.20 | |
| 4 | Price (as evaluated with U.S. Jobs trade-off) | 100.00 | 30.00% | 30.00 | |
| 5 | Technical Compliance | 71.00 | 20.00% | 14.20 | |
| 6 | Project Management Experience | 62.00 | 10.00% | 6.20 | |
| 7 | Total | | 100.00% | 79.60 | 2 |
| 8 | Kinkisharyo International, LLC | | | | |
| 9 | Experience and Past Performance | 82.50 | 40.00% | 33.00 | |
| 10 | Price (as evaluated with U.S. Jobs trade-off) | 92.66 | 30.00% | 27.80 | |
| 11 | Technical Compliance | 75.50 | 20.00% | 15.10 | |
| 12 | Project Management Experience | 74.00 | 10.00% | 7.40 | |
| 13 | Total | | 100.00% | 83.30 | 1 |
| 14 | Siemens Industry Inc. | | | | |
| 15 | Experience and Past Performance | 77.25 | 40.00% | 30.9 | |

| | | | | | |
|-----------|---|-------|----------------|--------------|----------|
| 16 | Price (as evaluated with U.S. Jobs Trade-off) | 87.00 | 30.00% | 26.1 | |
| 17 | Technical Compliance | 72.50 | 20.00% | 14.5 | |
| 18 | Project Management Experience | 68.00 | 10.00% | 6.8 | |
| 19 | Total | | 100.00% | 78.30 | 3 |

U.S. Employment Program – Price Trade off Analysis

| | | CAF USA | Kinkisharyo Intl. | Siemens Industry |
|----|--|----------------|--------------------------|-------------------------|
| A. | BAFO Price (Base & Options) | \$785,632,250 | \$891,371,272 | \$940,636,114 |
| B. | U.S. Employment Value* | \$62,402,503 | \$97,889,293 | \$99,155,651 |
| C. | U.S. Employment Value with Economic Multiplier of 1.4183 | \$88,505,470 | \$138,836,384 | \$140,632,460 |
| D. | Proposed Price for Evaluation Purposes only (Row A – C) | \$697,126,780 | \$752,534,888 | \$800,003,654 |

* Note: The U.S. Employment Value is derived from the work hours to be performed by new Contractor employees, on the P3010 project, times the wages and benefits paid to those new employees*.

C. Price Analysis

The recommended price has been determined to be fair and reasonable based upon adequate price competition, fact finding, technical evaluation, independent cost estimate and negotiations. While the award is being recommended to a Proposer other than the lowest price offerer, the recommended price is 10% lower than the Independent Cost Estimate (ICE) and within 11.9% of the lowest price offer. Based on technical evaluation and economic analysis, the recommended price addresses all cost elements and presents the best overall value when all evaluation factors are considered, including clear advantages in technical compliance, schedule risk, project management and new U.S. job creation. The prices identified below are for the base Contract and all Options.

| | Proposer | Initial Proposal Amount | Negotiated – BAFO |
|----|---------------------------------|--------------------------------|--------------------------|
| 1. | CAF USA, Inc. | \$948,727,755 | \$785,632,250 |
| 2. | Kinkisharyo International, Inc. | \$864,444,590 | \$891,371,272 |
| 3. | Siemens Industry, Inc. | \$1,009,043,396 | \$940,636,114 |

D. Background on Recommended Contractor

The recommended firm, Kinkisharyo International, L.L.C., located in Westwood, MA, is a wholly owned subsidiary of Kinki Sharyo Company, Ltd. (KSJ), headquartered in Osaka, Japan. KSJ has been manufacturing rail transit vehicles since 1920. Kinkisharyo International has been manufacturing rail cars in the U.S. since 1984. Kinkisharyo International has been awarded 15 rail car contracts in the U.S. and has delivered 684 cars during that time span. Kinkisharyo International has never been late in the delivery of any of its rail car contracts. Their most recent work was to provide LRVs to the transit agencies in Phoenix, Dallas and Seattle.

E. Small Business Participation

The Diversity and Economic Opportunity Department did not recommend a Disadvantaged Business Enterprise (DBE) participation goal for this rolling stock 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 the 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. | Ansaldo STS USA, Inc. | Automatic Train Protection System |
| 2. | Baultar Concept Inc. | Flooring |
| 3. | Dellner Couplers, Inc. | Couplers |
| 4. | IFE North America, LLC | Doors |
| 5. | INIT, Inc. | Automatic Passenger Counter |
| 6. | Knorr Brake Corporation | Friction Brake System |
| 7. | Kustom Seating Unlimited, Inc | Passenger Seating |
| 8. | Penn Machine Company | Wheels and Axels |
| 9. | Saft America | Batteries |
| 10 | The Timkin Company | Journal Bearings |
| . | | |
| 11 | Toyo Denki USA, Inc. | Propulsion System |
| . | | |
| 12 | Trans-Lite, Inc. | Interior and Exterior Lighting |
| . | | |
| 13 | TransTech | Pantograph |
| . | | |
| 14 | Transtechnik | Auxiliary Electrical Equipment |
| . | | |

| | | |
|----|-----------|---------------|
| 15 | USSC, LLC | Operator Seat |
|----|-----------|---------------|



ATTACHMENT B

CP206035 - Expo Blue Line Light Rail Vehicle Procurement (FY12-17+)

| Uses of funds | Inception to Date Through FY11 | FY12 | FY13 | FY14 | FY15 | FY16 | FY17 | Total | % of Total |
|--------------------|--------------------------------|-------------------|-------------------|-------------------|-------------------|-------------------|--------------------|--------------------|---------------|
| Acquisition | | 46,227,468 | 48,946,730 | 39,345,056 | 74,408,070 | 90,134,502 | | 299,061,827 | 87.4% |
| Pro Services | | 1,302,580 | 4,610,069 | 4,583,338 | 4,687,399 | 4,063,986 | 2,076,320 | 21,323,691 | 6.2% |
| MTA Administration | 256,472 | | 370,200 | 1,026,400 | 1,386,000 | 1,415,600 | 1,431,800 | 6,181,000 | 1.7% |
| Contingency | | | | | | | 16,078,011 | 15,842,482 | 4.7% |
| Total | 256,472 | 47,530,048 | 53,926,999 | 44,954,794 | 80,481,469 | 95,614,088 | 19,586,130 | 342,350,000 | 100.0% |
| Sources of funds | FY12 | FY13 | FY14 | FY15 | FY16 | FY17 | Total | % of Total | |
| Measure R 35% | 18,661,048 | 5,887,363 | 5,156,315 | 9,231,224 | 12,806,919 | 12,757,131 | 64,500,000 | 18.8% | |
| Prop C 25% | 51,290 | | | | | | 51,290 | 0.0% | |
| Local Agency Funds | 39,400 | | | | | | 39,400 | 0.0% | |
| Prop A 35% | | | | | | 6,829,000 | 6,829,000 | 2.0% | |
| Prop 1B PTMISEA | 26,760 | | | | 5,092,094 | | 5,416,918 | 1.6% | |
| STIP | 139,022 | | 298,064 | | | | 139,022 | 0.0% | |
| RIP | 6,969,000 | 45,441,000 | 39,798,479 | 71,250,244 | 38,412,277 | | 201,871,000 | 59.0% | |
| CMAQ | 14,200,000 | | | | | | 14,200,000 | 4.1% | |
| RSTP | 7,700,000 | 2,300,572 | | | 39,302,798 | | 49,303,370 | 14.4% | |
| Total | 256,472 | 47,530,048 | 53,926,999 | 80,481,469 | 95,614,088 | 19,586,131 | 342,350,000 | 100.0% | |

Note: Funding sources and cashflow may change subject to funds availability and expenditure rates.

**Metro**Los Angeles County
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Los Angeles, CA 90012-2952213.922.2000 Tel
metro.net**EXECUTIVE MANAGEMENT AND AUDIT COMMITTEE
OPERATIONS COMMITTEE
OCTOBER 21, 2010****SUBJECT: LIGHT RAIL VEHICLE PROCUREMENT****ACTION: AUTHORIZE NEW PROCUREMENT OF LIGHT RAIL VEHICLES
(LRVs)****RECOMMENDATION**

- A. Authorize staff to issue a federally funded solicitation for a "Best Value" LRV procurement. The procurement will include 78 vehicles in the base order and options for additional vehicles as required for Measure R light rail projects.
- B. Approve an increase in the life-of-project budget for CP#206035 – Light Rail Vehicle Procurement (P3010) of \$160,910,000, from \$174,500,000 to \$335,410,000.
- C. Approve the attached funding plan totaling \$335,410,000 for the first 78 LRVs that includes the reprogramming of \$21.9 million in federal funds which are anticipated savings from the procurement of P2550 light rail vehicles.
- D. Amend the FY11 budget to add one FTE to Transit Operations to provide dedicated project management support and one FTE to Administrative Services- Procurement to provide dedicated project and contract administration support for the life of the capital project.

ISSUES

At the September 2010 Board meeting, staff provided an update on the status of requests sent to the Federal Transit Administration (FTA) to include certain provisions in the P3010 procurement designed to create employment opportunities in Los Angeles County and to promote improved air quality in the vehicle manufacturing process.

On July 21, 2010, LACMTA sent a request to the Federal Transit Administration (FTA) to include certain provisions in the P3010 procurement designed to create employment opportunities in Los Angeles County and to promote improved air quality in the vehicle manufacturing process. Specifically, we have asked for approval to include the following requirements in the request for proposal and have received the following questions or initial responses from the FTA:

1. The creation of local jobs would be evaluated in the procurement. Proposers will be required to submit a detailed plan for creating employment opportunities in Los Angeles County in connection with production, delivery, acceptance testing, and warranty coverage requirements.

FTA's initial response is that our request would be difficult to approve, primarily because they view a local hiring provision as "exclusionary and discriminatory" under applicable FTA procurement rules.

LACMTA responded to the FTA's initial response with a follow-up letter to the FTA on September 30, 2010, restating our request for a timely response to our July 21st letter. LACMTA proposed in the alternative that incentive points be awarded for a local hiring program in the procurement scoring and argued that it would not constitute an impermissible geographic preference since it would be applied equally to all proposers, and as a result, would not conflict with FTA's prohibition on the use of "exclusionary and discriminatory specifications" in federally funded procurements.

2. Inclusion of a project specific Disadvantaged Business Enterprise (DBE) Goal for this procurement to create employment and business opportunities for DBE firms in the Los Angeles area.

FTA's initial response is that they are open to this type of provision, but that LACMTA would need to provide a justification of the use of project specific goals (rather than the normal practice of reliance on the vehicle manufacturer's DBE goals). They have also requested a list of anticipated DBE contracting opportunities and prospective DBE firms.

MTA contacted the FTA Office of Civil Rights to determine how the FTA instructs the transit vehicle manufacturers to set the DBE goals for vehicle manufacturing. Our current vendor, AnsaldoBreda, shared their federal DBE program plan with LACMTA which indicates that they have a 9% DBE goal for the P2550 Light Rail Vehicle procurement. We have also researched typical subcontracting opportunities for light rail vehicle manufacturing and assembly and have matched that list with certified DBE subcontractors. LACMTA identified over 1,700 potential DBE subcontractors who may be able to provide services to a light rail vehicle manufacturer. LACMTA provided this information to FTA in its September 30th follow-up letter. Based on this preliminary data we would anticipate setting a DBE goal greater than the current goal submission in the P2550 AnsaldoBreda contract.

3. A requirement that each proposer comply with and provide a certification that the manufacturing facilities that it will use to produce and manufacture LRVs for LACMTA will meet air quality and emissions standards established by the South Coast Air Quality Management District (SCAQMD) under the Clear Air Act.

FTA's initial response is that they have no jurisdiction over the use of this type of environmental provision and that LACMTA would need to address it with the Environmental Protection Agency (EPA).

Staff has identified the various LRV production processes and the specific applicable SCAQMD regulations that would apply to the manufacture of LRVs. We have created contract language and a certification that a responsible car-maker must adhere to during LRV production. We had a conference call with EPA officials and have submitted a copy of our proposed contract requirements and certification to the EPA. We will continue discussion with EPA officials on this matter to gain their support.

4. A requirement that the LRVs be manufactured in the United States and contain all U.S. components.

FTA's initial response is that they may not have a problem with this type of provision, but they raised the issue of whether 100% U.S. components could be achieved as a practical matter by the rail car suppliers.

In the September 30th follow-up letter to FTA, LACMTA reiterated its proposal to require all LRV components be of United States origin and that all of the manufacturing processes must take place in the United States. In effect, we are proposing to apply the Buy America requirements currently applicable to the "manufactured products" under the FTA and FHWA Buy America regulations rather than the Buy America requirements applicable to rolling stock. We stated that it is our belief that our proposed approach supports Department of Transportation objectives recently described in public speeches on the need for domestically built rail vehicles, given the current economic state of our country.

DISCUSSION

Award of a contract to provide LRVs will take approximately one year from the date of Board approval of the solicitation. MTA has contacted a number of potential vehicle manufacturers to discuss schedule requirements. Based on their responses, it will take approximately 24-30 months to produce the first vehicle for our testing and acceptance. We will ask car makers to deliver four cars per month beginning in late 2013. This expedited schedule will result in complete delivery of the base order of 78 LRVs by end of 2015.

To assure timely delivery of the P3010 LRVs, the following procurement requirements will be included in the RFP:

LRV Contractor Selection Process and Evaluation Criteria

The Best Value RFP will use explicit factors to define the relative importance of the evaluation criteria. The criteria will be structured to obtain a reliable and cost effective vehicle from a proven car builder. The evaluation factors will consist of the following elements:

1. Experience and Past Performance
2. Cost
3. Technical Compliance
4. Project Management Experience

Evaluation criterion #1 will be defined to be most important. Criteria #1 and #2 collectively will be significantly more important than evaluation criteria #3 and #4 combined.

Additionally, the RFP will include a local hiring program and an enhanced Buy America program as a basis for providing proposers with incentive points in the overall review and scoring of proposals. The additional points earned would be used as part of the Best Value trade-off process.

The DBE goal, set by LACMTA according to California subcontracting opportunities will be included in the RFP and evaluated in the same manner that all other federally funded Metro contracts are evaluated, The applicable SCAQMD regulations for clean air and water will be treated as responsiveness and responsibility issues. The Best Value selection process, including negotiations with all proposers in the competitive range, allows us to review proposal responses in greater depth until we are satisfied that the selected contractor has sound technical competence and history of timely deliveries.

Contractor Financial Guarantees

To provide maximum performance protection and minimize risk to LACMTA, the RFP will require the following financial guarantees:

- Performance Bond – secures fulfillment of all contractor's obligations under the contract. The performance bond will be required for 100% of the contract price.
- Irrevocable Letter of Credit – requires the selected contractor to provide a letter of credit or escrow account equal to 6% of the total contract value to address delivery and production support of the vehicles.
- Liquidated Damages (LDs) – damages that the contractor agrees to pay when contractual milestones or deliverables have been missed. The LDs may be assessed up to an amount not to exceed 10% of the total contract price.

- Retention of Monies from Progress Payment – 5% from each progress payment will be withheld until the contract has been completed. This provides security that the contractor will continue to perform until contract completion. Additionally, we may increase the retention to 10% if significant milestones are not achieved within a reasonable time frame.

The financial guarantees identified above provide assurances that the contractor will perform according to the contract requirements and schedule.

Contract Data Deliverables and Milestones

We estimate that the contractor will generally take at least 24 months to design the LRV to meet our specifications and produce the first prototype LRV for testing. This will be followed by the manufacturing and assembly of production LRVs; commissioning of the LRVs; acceptance; and warranty monitoring. Throughout this duration, project staff will review key deliverables and monitor milestones, such as the following:

- Car design review packages consisting of drawings, analyses, etc.
- Qualification tests for carbody, trucks, and subsystems equipment
- First Article Inspection (FAI) of the LRV and subsystems equipment
- Carshell and truck manufacturing
- Car and truck assembly, including factory tests
- Car delivery, acceptance, testing and commissioning
- Warranty monitoring

Such in-depth monitoring and oversight will provide internal controls needed to manufacture cars that comply with the contract requirements and are built with the highest quality and reliability.

Procurement Management

The new LRV contract will be long-term and technically complex. It will require dedicated and expert technical project management and contract administration support. Additional technical support for the LRV design, production and quality assurance phases will be provided by consulting firms who specialize in LRV procurements.

A Metro project manager will be assigned to the project to provide stronger review of the LRV design documents, increased in-plant inspections, and formal progress reports to the Chief Operations Officer and the Board for the life of the project. Monthly contract progress review meetings for design, schedule, and technical discussions will be held at the contractor's and suppliers' plants.

A dedicated contract administrator will support program reviews, assess contract performance through contract milestone adherence, assess payments and liquidated damages in relation to contract milestones, manage and negotiate change orders,

assure delivery of all requirements, including spares, tooling, test equipment, product documentation, manuals, spares, and will support warranty claims and contract close-out.

Risks

A risk to proceeding with releasing the RFP prior to FTA approval is that we will need to issue amendments to the RFP if the FTA denies any of our request(s). Depending upon the complexity of the amendment, additional time will be added to the proposal response, if necessary.

FINANCIAL IMPACT

The proposed funding plan (Attachment A) is a combination of federal, state, and local funds with \$265 million from federal sources for the base contract. The funding for the options will be identified through the 30/10 Initiative implementation schedule and approved by the Board prior to exercise of any options. The funding required to prepare, issue and evaluate the RFP as well as manage and administer the contract has been included in the FY11 budget in CP#206035.

Impact on Bus and Rail Operating and Capital Budget

The funds identified are primarily federal and state capital grants and Measure R 35% Transit Capital, none of which are eligible for bus and rail operating expenses.

ALTERNATIVES CONSIDERED

The Board could choose not to move forward with the RFP to begin the procurement process for the LRVs until the FTA has issued its final decision on all of LACMTA's requests. This alternative is not recommended because LACMTA needs LRVs to satisfy service demands for our expanding network of light rail transit projects.

NEXT STEPS

After Board approval of the recommended RFP, staff will prepare and release a solicitation to provide consultant support evaluation of P3010 proposals and source selection of the P3010 contractor. Additionally, a RFP will be issued to obtain technical and inspection services during pre-production and production phases of the vehicle development.

ATTACHMENT A

A. Financial Plan for LRV Procurement Base Buy


Lonnie Mitchell
Chief Operations Officer


for Arthur T. Leahy
Chief Executive Officer

Federal/State/Local
Light Rail Vehicle Procurement (78) – CP206035
Capital Project Funding and Expenditure Plan
(\$ in millions)

Revised 10-12-2010P

| | Previous Years | FY11 | FY12 | FY13 | FY14 | FY15 | FY16 | FY17 | TOTAL | % |
|---|-------------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|-----------------|-------------|
| Uses of Funds | | | | | | | | | | |
| Acq of Revenue Vehicle (@\$4.3m) | | \$ 15.2 | \$ 34.3 | \$ 18.4 | \$ 73.8 | \$ 68.5 | \$ 26.1 | \$ 33.6 | \$ 269.9 | 80% |
| Parts | | | | \$ 1.0 | \$ 2.3 | | | | \$ 3.3 | 1% |
| Special Tools | | | | \$ 0.2 | | \$ 4.5 | | | \$ 4.7 | 1% |
| Test Equipment | | | | \$ 0.5 | | \$ 8.9 | | | \$ 9.4 | 3% |
| Administration | \$ 0.5 | \$ 0.5 | \$ 3.0 | \$ 3.0 | \$ 3.0 | \$ 3.0 | \$ 3.0 | | \$ 16.0 | 5% |
| Contingency | | | \$ 1.1 | \$ 8.2 | \$ 6.4 | \$ 6.9 | \$ 9.6 | | \$ 32.2 | 10% |
| Total Project Cost | \$ 0.5 | \$ 15.7 | \$ 38.4 | \$ 31.3 | \$ 85.5 | \$ 91.8 | \$ 38.7 | \$ 33.6 | \$ 335.4 | 100% |
| Sources of Funds | | | | | | | | | | |
| Measure R 2% | | | | | | | | \$ 5.5 | \$ 5.5 | 2% |
| Measure R 35% | | | \$ 4.4 | \$ 3.6 | \$ 9.8 | \$ 10.5 | \$ 4.4 | \$ 27.3 | \$ 60.1 | 18% |
| Prop 1B/TCRP/STIP ⁽¹⁾ | \$ 0.46 | 1.8 | | 3.10 | | | | | \$ 5.4 | 2% |
| RSTP (Federal) ⁽²⁾ | | | | | \$ 41.7 | | \$ 7.7 | | \$ 49.4 | 15% |
| CMAQ (Federal) | | \$ 10.2 | \$ 31.1 | | | | | | \$ 41.3 | 12% |
| Regional Imp.Prog. (RIP-Federal) | | \$ 3.7 | \$ 2.6 | \$ 24.9 | \$ 34.0 | \$ 81.3 | \$ 26.5 | \$ 0.8 | \$ 173.8 | 52% |
| Total Project Funding ⁽³⁾ | \$ 0.5 | \$ 15.7 | \$ 38.1 | \$ 31.6 | \$ 85.5 | \$ 91.8 | \$ 38.6 | \$ 33.6 | \$ 335.4 | 100% |
| Surplus (Deficit) | 0.0 | 0.0 | -0.3 | 0.3 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | |

⁽¹⁾ Includes TCRP/STIP/Prop 1B/ funds spent in prior years.

⁽²⁾ Funds pending federal approval.

⁽³⁾ Funding source and cashflow need may change subject to funds availability and final cost.

Numbers may not add up due to rounding.



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ATTACHMENT D

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**OPERATIONS COMMITTEE
JANUARY 21, 2010**

SUBJECT: ACQUISITION OF LIGHT RAIL VEHICLES

**ACTION: AUTHORIZATION TO PROCURE BY COMPETITIVE
NEGOTIATION (PUBLIC UTILITIES CODE 130238)**

RECOMMENDATION

A. Adopt the following motion: The Board finds that because the elements and scope of the purchase of light rail vehicles are of a highly specialized and unique nature, the procurement qualifies under Public Utilities Code (PUC) section 130238 for procurement by competitive negotiation.

Requires two-thirds vote of the Board

B. Authorize the Chief Executive Officer (CEO) to solicit light rail vehicles as a competitive negotiation pursuant to PUC 130238 and Metro's Procurement Policies.

ISSUE

The Metro Project Office and Procurement staff have reviewed the light rail vehicle technical requirements and has determined that the vehicles are specialized rail transit equipment. This determination renders the vehicles appropriate to be procured by a competitive negotiation process in accordance with PUC Section 130238. PUC Section 130238 states that the Board may, after finding by a two-thirds vote of all of its members that a particular procurement qualifies under this section, direct that the procurement be conducted through competitive negotiation under this section.

POLICY IMPLICATIONS

It is in the public's interest to utilize competitive negotiation rather than a sealed bid process to consider factors other than price in the award of contracts for these vehicles, as is allowed under PUC section 130238. The competitive negotiation process allows consideration of factors other than price that could not be adequately quantified or considered in a strictly low bid procurement.

ALTERNATIVES CONSIDERED

Procurement by a sealed low-bid process as prescribed by PUC Section 130232 was considered by staff but is not recommended. The sealed bid process does not adequately account for any technical superiority of performance, reliability, or system life cycle costs that one firm's equipment may have over another firm's equipment, since the process must award to the lowest responsive responsible bidder. For these reasons, staff does not recommend this alternative. The negotiated procurement process will provide for evaluation of critical non-price related factors in the selection process.

FINANCIAL IMPACT

Funding of \$200,000 is included in the FY10 budget in capital project #206035 and cost center #3960. The total funding plan and sources for the LRVs will be presented to the Board as part of the LOP budget approval.

Impacts to Bus and Rail Enterprise Fund Operating and Capital Budgets

The source of funds for this action/procurement is TCRP, STIP, and PA35 bonds. These funds are eligible for bus and rail operating and capital expenditures. No other sources of funds were considered for this activity because this is a board adopted project with a funding plan.

BACKGROUND

Metro needs to procure additional light rail vehicles to satisfy operating requirements over the next few years. Based on the above, a Request for Proposal (RFP) will be prepared for approximately 100 new cars (dependent upon available funding) plus options for additional cars to effect competition among the major car builders for a competitive negotiated procurement.

NEXT STEPS

The current P2550 light rail vehicle specification has been revised to make sure it is current and to also assure that its technical content and requirements do not unduly hinder competition. In accordance with Board direction at the September 24, 2009 Board meeting to move forward with a new procurement as expeditiously as possible in the event the P2550 AnsaldoBreda options were not consummated, the specification was sent out on November 3, 2009 for Industry Review to the car building industry with draft contract terms and conditions. This Industry Review was to generate interest in our procurement and allow manufacturers to comment and point out any obvious discrepancies or cost-prohibitive requirements which can be addressed before we issue the formal Request for Proposal.

Industry review comments were received from five car builders on December 7, 2009 and are being reviewed. We plan to complete our review by February 1, 2010 and

based upon Board approval of this action, send out a formal competitive negotiation Request for Proposal by March 1, 2010. Staff anticipates submitting the procurement to the Board for award approval by October 31, 2010.

Prepared by: Tom Butler, Sr. Contract Administrator

Michael J. Cannell

Michael J. Cannell
General Manager, Rail Operations

Arthur T. Leahy

Arthur T. Leahy
Chief Executive Officer