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**37**

**OPERATIONS COMMITTEE  
JUNE 17, 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 an LRV procurement which includes evaluation criteria that encourages "best value" for the MTA and local job creation during light rail vehicle production, subject to ensuring eligibility for federal funding. The new LRVs are required to meet the vehicle requirements for current projects and for the transit projects identified in the 30/10 Initiative.
- B. Approve the attached funding plan totaling \$335,410,000 for the first 78 LRVs.

**ISSUES**

In January 2010, the Board approved a competitively negotiated procurement for new LRVs. The procurement will consist of a base buy of 78 LRVs and will include options to provide for the transit projects included in the 30/10 Initiative. The procurement and funding plan will be structured to meet the following goals:

- Provide flexibility to ensure that all projects can be accelerated according to the 30/10 Initiative with LRVs available when required
- Maximize the creation of new jobs, including local hiring initiatives, during construction of the transit projects included in the 30/10 Initiative
- Achieve record participation of small and minority business participation in the construction of the transit projects included in the 30/10 Initiative

To maximize funding eligibility for the entire 30/10 Initiative and create the most jobs possible, staff is recommending that the LRV procurement remain eligible for federal funding including following all federal procurement guidelines. We will seek approval from the Federal Transit Administration to use local job creation as an evaluation criteria on the grounds that it is needed to meet MTA's particular needs in this

procurement, such as the creation of local jobs in Los Angeles County (particularly in light of the labor surplus situation in Los Angeles County).

## **DISCUSSION**

Authorization of the P3000 procurement needs to address several key issues, as follows:

1. Potential ways to provide for jobs in Los Angeles County and the implication for all of the 30/10 Initiative financial plans;
2. Contractor selection process and criteria;
3. Contractor financial guarantees and assurances to proactively avoid a repeat of the delivery delays that were encountered on the previous LRV contract;
4. Option quantities to be included to meet MTA's LRV fleet needs for future growth and new rail lines/extensions; and
5. Enhanced MTA management of the Procurement and LRV production schedule to meet 30/10 Initiative.

A discussion of these issues and the major points are addressed below:

### **1. Jobs for Los Angeles County**

The 30/10 Initiative calls for the design and construction of 12 new transit projects in ten years by advancing Measure R revenues from the second two decades of Measure R. Each of the projects will require between 10 and 50 LRVs, depending upon the length of the segment. The total cost for each project includes the cost of the LRVs required to operate the new line. The design and construction of the 12 new transit projects are estimated to create approximately 30,000 jobs per \$1 billion spent on construction. A major goal of the 30/10 Initiative is to create as many new jobs as possible.

The proposers will be requested to submit proposals that include creating jobs for Los Angeles County workers. The proposals will be reviewed for their presentation of realistic job creation opportunities tied to rail car production.

### **2. LRV Selection Process and Criteria**

The objective of the selection process and evaluation of proposals is to determine which proposal provides the Best Value to MTA. The Public Utilities Commission Code, and FTA guidelines which permit this process, define Best Value as "the overall combination of quality, price and other elements of a proposal that, when considered together, provide the greatest overall benefit in response to requirements described in the solicitation documents". MTA plans to achieve this result by first identifying and prioritizing selection criteria evaluated under the guidelines of an approved source selection plan (SSP).

The selection criteria proposed are the following: 1) experience and past performance; 2) price; 3) technical compliance; 4) project management experience; and, 5) efforts to facilitate job creation due to high unemployment and Los Angeles County labor surplus during production, delivery, inspection and testing. Criterion #1 will be considered most important, and criteria 1 and 2 collectively, are significantly more important than criteria 3, 4, or 5, or their collective total. The RFP will clearly state that the inclusion of criterion #5 will be subject to ensuring eligibility of federal funding.

### **3. Contractor Financial Guarantees**

To provide maximum performance protection and minimize risk to MTA, the Request-for-Proposal (RFP) will require the following financial guarantees:

- Performance Bond – secures fulfillment of all the contractor's obligations under the contract. The performance bond will be required for 100% of the contract price.
- Liquidated Damages (LDs) – are fees that the contractor agrees to pay MTA when contractually agreed-to milestones or deliverables have been missed. Examples of deliverables that may be impacted by LDs are delivery of the LRVs according to the contractual schedule, manuals, integrated schematic diagrams, car body structure test reports, and truck static and fatigue test reports. The LDs may be assessed up to an amount not to exceed 10% of the total contract price.
- Retention of monies from Progress Payments – As the contractor completes major milestones on the project, he is paid for that portion of the work. MTA will retain 10% from each progress payment until the contract has been completed. This requirement provides MTA with security that the contractor will continue to perform until contract completion.

The financial guarantees identified above are considered reasonable and will provide MTA with some assurances that the contractor will perform according to the contract schedule. However, the establishment of a strong, dedicated MTA project manager in cooperation with a qualified, motivated contractor, both subject to routine oversight, is the single most important factor in increasing the procurement's probability of success.

### **4. Number of LRVs and Option Quantities**

Approximately 235 new LRVs are required to a) operate the current system to full capacity with the addition of Expo 1; b) provide LRVs for the new transit projects in the 30/10 Initiative; and, c) enhance service capacity or replace existing LRVs when they meet their useful life requirements. The procurement will include a base buy and contract options. The planned deployment of the 78 LRVs included in the base buy follows:

Exposition Line Phase I -	16 LRVs
Exposition Line Phase II -	47 LRVs
Foothill Extension -	<u>15 LRVs</u>
Total Base Buy -	78 LRVs

The additional 157 LRVs (for a total of 235) included in the contract as options, will be exercised to meet the requirements of the balance (beginning with the Crenshaw corridor) of the light rail projects as they are scheduled and for replacement and/or capacity enhancements.

## **5. Enhanced MTA Management of Procurement and LRV Production Schedule**

MTA will assign a project manager to the project to provide stronger review of the car design documents, increased in-plant inspections, and formal progress reports to the CEO and the Board for the life of the project.

It is estimated that the RFP process to select the carbuilder/contractor will take about 12 months. The contractor will generally take about 30 months to design the LRV to meet MTA's specifications and produce the first prototype car for testing. If the contract is awarded in 2011, MTA could expect to begin receiving LRVs as early as 2014. Once MTA has approved the first production LRV and finalized the design, LRVs could be manufactured and received as rapidly as two LRVs per month beginning approximately six months later. The contract options for the LRVs will be exercised to ensure that vehicles are available as the new transit projects are ready to operate. Current FTA guidance indicates that any options must be exercised within 60 months of the initial contract notice-to-proceed date.

Expo Phase I will begin revenue operation using LRVs from the existing fleet until the first P3000 cars begin to arrive in 2014.

## **FINANCIAL IMPACT**

The proposed funding plan (Attachment A) is a combination of federal, state, and local funds with \$190 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 has been included in the FY10 and FY11 budgets in CP#206035. The life-of-project budget approval will be requested at the time of contract award.

The currently estimated cost of \$335.4 million exceeds the individual project cost assumptions in the LRTP by approximately \$100 million. This increase is due to the individual project budgets assuming a much lower estimated cost per car than we are now estimating for the P3000 procurement. The project budgets used approximately \$3 million per car. Today, we are estimating \$4.3 million per car,

including project management costs. When the life-of-project budget for the LRVs is approved, the Board will need to choose between identifying additional revenues, deferring other capital projects, or reducing the scope of future transit projects.

#### Impact on Bus and Rail Operating and Capital Budget

The funds identified for funding 12 transit capital projects are primarily federal and state capital grants and Measure R 35% Transit Capital, none of which are eligible for bus and rail operating expenses. Other local funding is planned from Prop A35% Rail Development monies that are eligible to be used for rail operations and Prop C40% discretionary funds that can be used for bus or rail operations and capital.

#### ALTERNATIVES CONSIDERED

The Board could consider a “local only” funding plan for the LRV procurement, however, the proposed funding plan reserves our local funds for the design and construction work and preserves more flexibility over local hiring preferences and higher SBE and MBE goals. The total need for LRVs over the next decade is in the total range of \$1.5 billion. Maintaining federal eligibility for the rail cars could provide at least half of the funding for the future needs and will allow us to spend our local funds on the construction projects, therefore, producing more local and minority jobs.

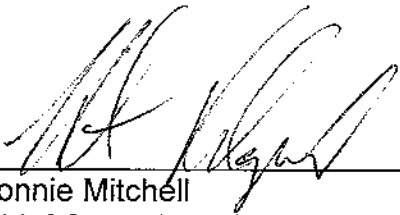
The Board could choose not to move forward with the RFP to begin the procurement process for the LRVs until the 30/10 Initiative schedule has been fully developed. This alternative is not recommended because of the near term Measure R light rail transit projects will require LRVs under the adopted Measure R schedule, so even if the project schedules are not accelerated, the LRVs must be available as projects are ready for revenue operation.

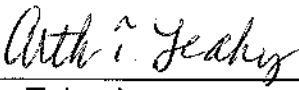
#### NEXT STEPS

After Board approval in January 2010 of the best-value procurement method, the RFP and LRV specifications were issued for industry review and interviews have been held with interested car builders. The RFP is being finalized based on those discussions. Upon Board approval of this action, the RFP will be formally issued. Staff anticipates submitting the procurement contract to the Board for approval in summer of 2011.

#### ATTACHMENT A

##### A. Financial Plan for LRV Procurement Base Buy

*FOR*   
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Lonnie Mitchell  
Chief Operations Officer

  
\_\_\_\_\_  
Arthur T. Leahy  
Chief Executive Officer

**ATTACHMENT A  
FEDERAL/STATE/LOCAL  
LIGHT RAIL VEHICLE PROCUREMENT (78) - CP 206035  
CAPITAL PROJECT FUNDING AND EXPENDITURE PLAN  
(\$ in Millions)**

Revised 4-21-2010

	Previous Years	FY10	FY11	FY12	FY13	FY14	FY15	FY16	FY17	TOTAL
<b>Uses of Funds</b>										
Acq of Revenue Vehicle (@\$4.3m)			33.00	11.00	18.40	73.80	68.50	26.30	34.00	265.00
Parts					1.00	2.30				3.30
Special Tools					0.20		4.50			4.70
Test Equipment					0.50		8.90			9.40
Administration	0.03	0.45	3.00	3.00	3.00	3.00	3.00	3.00		18.48
Contingency			2.80	1.10	3.90	6.40	6.90	9.55	3.87	34.52
<b>Total Project Cost</b>	<b>0.03</b>	<b>0.45</b>	<b>38.80</b>	<b>15.10</b>	<b>27.00</b>	<b>85.50</b>	<b>91.80</b>	<b>38.85</b>	<b>37.87</b>	<b>335.40</b>
<b>Sources of Funds</b>										
Measure R 35% Expo II			3.70	2.60	4.60	9.10	42.80	12.23		75.03
CMAQ Expo II (47) Cars							49.00			49.00
Measure R 35% (15) Foothill cars								26.62	33.38	60.00
TCRP <sup>(1)</sup>	0.03	0.00								0.03
STIP <sup>(1)</sup>		0.03								0.03
Expo I Local Match <sup>(1)</sup>		0.05	4.02	1.34						5.41
Expo I RSTP (Federal) 16 cars		0.36	31.06	10.30						41.73
Section 5309 - Fixed Guideway <sup>(2)</sup>			-	-						-
CMAQ/RSTP (Federal) <sup>(2)</sup>										-
<b>Total Project Funds</b>	<b>0.03</b>	<b>0.45</b>	<b>38.78</b>	<b>14.24</b>	<b>4.60</b>	<b>9.10</b>	<b>91.80</b>	<b>38.85</b>	<b>33.38</b>	<b>231.24</b>
<b>Surplus (Shortfall)</b>	<b>-</b>	<b>(0.00)</b>	<b>(0.02)</b>	<b>(0.86)</b>	<b>(22.40)</b>	<b>(76.40)</b>	<b>-</b>	<b>-</b>	<b>(4.49)</b>	<b>(104.16)</b>
<b>Proposed Additional Funds</b>										
Measure R 2%									4.50	4.50
Regional Imp.Prog. (RIP-Federal)				0.85	22.41	76.40				99.66
<b>Proposed Additional Funds</b>				<b>0.85</b>	<b>22.41</b>	<b>76.40</b>				<b>104.16</b>
<b>Total Project Funding<sup>(3)</sup></b>	<b>0.03</b>	<b>0.45</b>	<b>38.78</b>	<b>15.09</b>	<b>27.01</b>	<b>85.50</b>	<b>91.80</b>	<b>38.85</b>	<b>33.38</b>	<b>335.40</b>

<sup>(1)</sup> Stip/Prop 1B/Local funds also programmed under Project 890001 - Expo I for 16 of the cars.

<sup>(2)</sup> Funding may change subject to availability. We may be required to add these funds for the base buy under the 30/10 plan.

<sup>(3)</sup> Funding source and cashflow need may change subject to availability and final cost.

Numbers may not add up due to rounding.