

REGIONAL TRANSIT ISSUE PAPER

Agenda Item No.	Board Meeting Date	Open/Closed Session	Information/Action Item	Issue Date
10	12/12/11	Open	Action	11/17/11

Subject: Approving Purchase Request with the California Association for Coordinated Transportation (CalACT)/Morongo Basin Transit Authority (MBTA) Purchasing Cooperative for Six (6) 32' CNG Cut-Away Buses

ISSUE

Whether (A) the process for procurement of buses set out in RT Ordinance No 09-05-01, which requires that a contract for the purchase of buses be awarded to the lowest responsive bidder to an Invitation to Bid, is inadequate to ensure that RT secures the best available revenue-vehicle, for the best price and on terms that are in RT's best interest; (B) whether to approve the Fourth Amendment to the Contract with Creative Bus Sales, Inc. to purchase six (6) 32' CNG cut-away buses; and (C) whether to approve amending the FY2008 and FY2012 Capital Budgets.

RECOMMENDED ACTIONS

- A. Adopt Resolution 11-12-_____, Finding that the Purchase of Six (6) 32' CNG Cut-Away Buses by Award to the Lowest Responsive and Responsible Bidder Does Not Constitute an Adequate Method of Procurement; and
- B. Adopt Resolution 11-12-_____, Approving a Fourth Amendment to the Contract with Creative Bus Sales, Inc for Purchase of Six (6) 32' CNG Cut-Away Buses; and
- C. Adopt Resolution 11-12-_____, Approving Amendments to the FY2008 and FY2012 Capital Budgets.

FISCAL IMPACT

Budgeted:	Concurrent Budget Approval	This FY:	\$	1,100,000
Budget Source:	Capital	Next FY:	\$	N/A
Funding Source:	\$400,000 Prop 1 B \$700,000 Temporary Funding, State Transit Assistance (STA) or Measure A funds on deposit until District is able to secure permanent bond funding	Annualized:	\$	N/A
Cost Cntr/GL Acct(s) or Capital Project #:	TBD	Total Amount:	\$	1,100,000
Total Budget:	\$ 1,100,000			

Approved:

Presented:

Final 12/12/11

General Manager/CEO

Director of Community Bus Services

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DISCUSSION

On February 15, 2011, the North Natomas Transportation Management Association (NNTMA) released a Request for Proposals for operation of their “Flyer” bus service between North Natomas and downtown Sacramento. On March 31, 2011, RT submitted a proposal to the NNTMA for service using RT’s Community Bus Service (CBS) drivers. On September 7, 2011, the NNTMA Board of Directors selected RT as the preferred proposer and voted to authorize the NNTMA’s Executive Director to negotiate a five-year contract with RT for operation of the Flyer service. The contract calls for RT to provide a total of six (6) 28-passenger CNG buses (5 in daily operation and 1 as a spare). The service to be provided will be peak-only and operated along 4 routes in North Natomas, and will be open to the public. The buses will be branded as NNTMA “Flyer” buses and, consistent with the TMA’s Request for Proposals, will be CNG-fueled, and include electronic headsigns, bike racks, on-board Wi-Fi, and Clever Devices automated stop announcement and vehicle location systems.

Buses matching the NNTMA’s specifications are available from the California Association for Coordinated Transportation (CalACT) and Morongo Basin Transit Authority (MBTA) purchasing cooperative, and could be ready for delivery by the end of January 2012. This is the purchasing cooperative used to purchase the last order of 52 paratransit buses and most recently 1 hybrid cut-away bus for the Community Bus Service division. With the need to begin service by March 1, 2012, there is not sufficient time to issue an RFP, select a vendor, and have the buses built and accepted within a period of 2 ½ months. Therefore, staff recommends using the CalACT/MBTA purchasing cooperative for the procurement of these buses.

This project will ultimately be paid for by two sources, Prop 1 B funds and bond proceeds. The source of the Prop 1B funds is \$400,000 savings from a previous Prop 1B project. The bonds will not be issued until 2012, so in the interim staff recommends funding that portion of the project cost with \$700,000 in STA or Measure A funds on deposit, to be repaid once the bond sale is completed.

Article III, Section 1.407 of the Regional Transit District Administrative Code allows RT to purchase commodities and services through contracts of other public entities without bidding by RT, if the public entity conducted a competitive bid process that does not violate any Federal or State requirements applicable to RT.

On the State level, Public Contract Code Section 20217 authorizes transit agencies to procure buses by competitive negotiation "upon a two-thirds vote of all members of the Board that the purchase of those materials [by award to the lowest-responsible bidder] does not constitute a method of procurement adequate for the agency's needs." Under federal law (49 U.S.C. Section 5325(f)(1)(b)), RT may base an award for rolling stock on factors such as performance, standardization, life cycle costs or other factors and is not obligated to award to the lowest bidder.

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On August 23, 2010, under Resolution No. 10-08-0105, the Board awarded a contract to Creative Bus Sales, Inc. to purchase 52 buses for paratransit service. This contract was awarded as a result of RT “piggybacking” off the contract between CalACT/MBTA and Creative Bus Sales, Inc. On October 24, 2011, under Board Resolution No. 11-10-0153, the Board approved an amendment to the aforementioned contract to purchase (1) one hybrid bus. The form of procurement employed by CalACT/MBTA was a Local Government Purchasing Schedule as defined in the FTA Circular 4220.1F, Chapter V, Part 4, wherein the FTA extends to local governments the authority to make arrangements with multiple vendors to provide options for goods or service in the future at established prices. This form of procurement is sometimes known as a “menu-style bid.” The CalACT/MBTA Cooperative released Request for Proposal (RFP) Number 09-02 in November 2009 for Accessible Transit/Paratransit Vehicles, which was a competitive price-based procurement based on accepting vehicles that met the bid specifications and whose price fell within a predetermined competitive range established by the Cooperative. The RFP included both Federal and State provisions.

The CalACT/MBTA purchasing cooperative is desirable for procurement of these CNG cut-away vehicles because it allows RT to meet the very short time line needed to have these buses available for use in the contract with the North Natomas TMA, and because it enables RT to select from a menu of choices from different vendors and manufacturers that best suit RT’s needs, rather than the limitations of an award based solely on the price of the vehicles. The cooperative provides a broad range of products. The El Dorado National, Aero Elite 320, sold by Creative Bus Sales, meets RT’s needs by providing a competitively priced CNG cut-away bus. The base price of this bus is \$73,619, which was the lowest of four bids received for Class E buses. Consequently, RT’s Procurement Staff has determined that the price for the El Dorado National, Aero Elite 320 is fair and reasonable. The total estimated price, including CNG conversion and optional equipment, is approximately \$137,450 per vehicle, not including tax. Additional equipment and inspection services will be acquired under separate procurements.

Staff recommends that the Board: (1) find that the purchase of this vehicle by award to the lowest-responsible bidder does not constitute a method of procurement adequate for RT’s needs; (2) authorize RT to issue a fourth amendment to the Contract with Creative Bus Sales, Inc. to purchase six (6) CNG cut-away buses; (3) amend the FY 2008 and FY 2012 capital budgets to apply \$400,000 in State Proposition 1B funds, and \$700,000 in State Transit Assistance and/or Measure A funds, respectively, to the project.

RESOLUTION NO. 11-12-_____

Adopted by the Board of Directors of the Sacramento Regional Transit District on this date:

December 12, 2011

FINDING THAT THE PURCHASE OF SIX (6) 32' CNG CUT-AWAY BUSES BY AWARD TO THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER DOES NOT CONSTITUTE AN ADEQUATE METHOD OF PROCUREMENT

WHEREAS, the Sacramento Regional Transit District (RT) has a need to purchase CNG-fueled cut-away style buses; and

WHEREAS, the time requirements of an Invitation to Bid process pursuant to RT's Procurement Ordinance for this style vehicle would not be possible within the time constraints for the start of the North Natomas Service; and

WHEREAS, the Morongo Basin Transit Authority (MBTA)/ California Association for Coordinated Transportation (CalACT) Vehicle Purchasing Cooperative developed a Local Government Purchasing Schedule procurement as defined in the Federal Transit Administration's (FTA) Circular 4220.1F, Chapter V, Part 4.; and

WHEREAS, the procurement of buses under the MBTA/CalAct Purchasing Cooperative will enable RT to expeditiously select vehicles from a competitively bid price menu of choices from different vendors and manufacturers that best suit RT's needs and that have been selected under a competitively bid procurement process; and

WHEREAS, such procurement methods are consistent with language in Public Contract Code Section 20217(a) that finds and declares that it is in the public interest for transit agencies to consider the broadest possible range of competing products and materials available, fitness of purpose, manufacturer's warranty, vendor financing, performance reliability, standardization, life cycle, costs, delivery timetables, support logistics, and other similar factors in addition to price in the award of these contracts; and

WHEREAS, Public Contract Code Section 20217, provides authority to procure vehicles by competitive negotiation upon a two-thirds vote of all members of the Board if the Board makes certain findings.

BE IT HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE SACRAMENTO REGIONAL TRANSIT DISTRICT AS FOLLOWS:

THAT, the purchase of six CNG cut-away buses by award to the lowest-responsible bidder does not constitute an adequate method of procurement to fulfill RT's needs and, consequently, such buses may be purchased under the MBTA/CalAct Vehicle Purchasing Cooperative's local government purchasing schedule.

DON NOTTOLI, Chair

A T T E S T:

MICHAEL R. WILEY, Secretary

By: _____
Cindy Brooks, Assistant Secretary

RESOLUTION NO. 11-12-_____

Adopted by the Board of Directors of the Sacramento Regional Transit District on this date:

December 12, 2011

**APPROVING A FOURTH AMENDMENT TO THE CONTRACT WITH
CREATIVE BUS SALES, INC FOR PURCHASE OF SIX (6) CNG CUT-AWAY BUSES.**

WHEREAS, the Sacramento Regional Transit District (RT) has funds available for the purchase of six CNG cut-away buses for use on the North Natomas Transportation Management Association (NNTMA) "Flyer" service; and

WHEREAS, the Morongo Basin Transit Authority (MBTA) served as the lead agency for a California Association for Coordinated Transportation (CalACT) Vehicle Purchasing Cooperative and, under RFP #09-02, conducted a negotiated procurement for buses, accepting proposers offering vehicles that met its specifications and whose prices fell within a competitive range established by the Cooperative; and

WHEREAS, pursuant to RFP #09-02, MBTA entered into a Contract ("MBTA Contract") with Creative Bus Sales, Inc. for the purchase of said buses; and

WHEREAS, on September 2, 2010, RT and Creative Bus Sales entered into a Contract for purchase of transit vehicles; and

WHEREAS, MBTA has assigned to RT the right to acquire six CNG cut-away buses from Creative Bus Services, Inc. under the terms and conditions of the MBTA Contract.

BE IT HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE SACRAMENTO REGIONAL TRANSIT DISTRICT AS FOLLOWS:

THAT, the Fourth Amendment to the Contract for purchase of transit vehicles through the CalACT/MBTA cooperative purchasing schedule between Creative Bus Sales, Inc. (therein "Contractor") and Sacramento Regional Transit District (therein "RT") whereby Contractor agrees to sell and RT agrees to purchase an additional six CNG cut-away buses for an amount not to exceed \$834,429.00, which includes applicable state and local sales tax and fees, is hereby approved.

THAT, the General Manager/CEO is hereby authorized and directed to sign said Amendment upon such terms.

DON NOTTOLI, Chair

A T T E S T:

MICHAEL R. WILEY, Secretary

By: _____
Cindy Brooks, Assistant Secretary

RESOLUTION NO. 11-12-_____

Adopted by the Board of Directors of the Sacramento Regional Transit District on this date:

December 12, 2011

**APPROVING AMENDMENTS TO THE FY2008 AND FY2012 CAPITAL
BUDGETS**

BE IT HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE
SACRAMENTO REGIONAL TRANSIT DISTRICT AS FOLLOWS:

THAT, the Fiscal Year 2008 and 2012 Capital Budgets are amended as outlined in
Exhibit A.

DON NOTTOLI, Chair

A T T E S T:

MICHAEL R. WILEY, Secretary

By: _____
Cindy Brooks, Assistant Secretary

REVISIONS TO THE FY 2008 AND FY 2012 CAPITAL BUDGETS

Funding Source	Project #	Project Name	Funding Changes: Increase (Decrease)	Description of Change
<u>FY2008 CAPITAL BUDGET CHANGES</u>				
FY2007-08 Proposition IB PTMISEA	B040	Neighborhood Ride Bus Purchase	(\$400,000)	Reduce Project Savings Amount
FY2007-08 Proposition IB PTMISEA	TBD	North Natomas Bus Purchase	\$400,000	Partial Funding for North Natomas CNG Bus Purchase
NET FY 2008 CAPITAL BUDGET CHANGE			\$0	
<u>FY 2012 CAPITAL BUDGET CHANGES</u>				
State Transit Assistance (STA) or Measure A Funds	TBD	North Natomas Bus Purchase	\$700,000	Partial Temporary Funding for North Natomas CNG Bus Purchase
NET FY 2012 CAPITAL BUDGET CHANGE			\$700,000	