

THIS PRINT COVERS CALENDAR ITEM NO. : 10.4

**SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY**

DIVISION: Transit Services

BRIEF DESCRIPTION:

Requesting authorization for the Director of Transportation to execute a Cooperative Purchasing Agreement with the State of Minnesota, through its commissioner of Administration, Materials Management Division, for procurement of diesel coaches.

SUMMARY:

- The state of Minnesota, through its Materials Management Division (MMD), established the Cooperative Purchasing Venture (CPV) to allow eligible entities to purchase goods, certain services and utilities from contracts established by the MMD for Minnesota state agencies.
- Minnesota Statutes § 471.59, subdivision 1, known as the Joint Powers Act, defines the governmental entities that may join the CPV program. They include counties, cities, towns, townships, and school districts, as well as other entities.
- The SFMTA is eligible to join the CPV under the above-mentioned Minnesota Statute.
- The SFMTA staff recommends using the Minnesota contract to purchase replacement transit buses for its fleet of diesel buses.
- Purchasing replacement transit buses through the CPV will allow the SFMTA to save approximately six months because staff can by-pass the advertising and evaluation phases of the procurement process as these phases are already part of the CPV.
- MMD requires government agencies that wish to join the venture to sign the attached Cooperative Purchasing Agreement, which requires the signing entity to indemnify MMD.

ENCLOSURES:

1. SFMTA Board Resolution
2. Cooperative Purchasing Agreement

APPROVALS:

DIRECTOR OF TRANSPORTATION _____ **DATE** 2/23/12

SECRETARY _____ 2/23/12

ASSIGNED SFMTAB CALENDAR DATE: March 6, 2012

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PURPOSE:

The purpose of this calendar item is to allow the SFMTA to execute a Cooperative Purchasing Agreement with the Materials Management Division of the State of Minnesota, which contains a provision requiring indemnification of Minnesota's Materials Management Division.

GOAL:

Procuring vehicles through the Cooperative Purchasing Agreement will allow the SFMTA to reduce the time it takes to procure replacement vehicles in order to meet the following goal and objective of the SFMTA's Strategic Plan:

Goal 2: System Performance - To get customers where they want to go, and when they want to be there

Objective No. 2.1: Improve transit reliability to meet 85% on-time performance standard

DESCRIPTION:

Under Section 21.16 of the San Francisco Administrative Code, the SFMTA may utilize the competitive procurement process of any other public agency to make purchases of commodities under the terms established in that agency's procurement process and as agreed upon by the City and the procuring agency, upon making a determination that the other agency's procurement process was competitive and the use of the other agency's procurement process would be in the City's best interests.

The SFMTA has been looking at alternative procurement avenues to reduce the time it takes to purchase replacement vehicles. Staff has determined that by purchasing replacement vehicle through the Minnesota Cooperative Purchasing Venture (CPV) it is possible to achieve this objective. The specifications of the buses provided in the venture are broad enough that it will allow the SFMTA to customize the vehicles to meet our needs as long as the requirements do not require cardinal changes to the design of the vehicles. Often, cooperative purchasing arrangements, such as the CPV, result in cost savings to the purchasers. FTA encourages such arrangements provided that all FTA requirements are followed. The CPV for diesel buses, which Minnesota issued in November 2011, meets FTA procurement requirements.

Minnesota's CPV, which was established by Minnesota Statute Section 16C.03, subdivision.10, allows eligible entities to purchase goods, certain services and utilities from contracts established by the Materials Management Division (MMD) for Minnesota state agencies. MMD issues competitive solicitations for vendors to provide goods, services and utilities to state agencies. This program allows eligible governmental entities to use these contracts just like Minnesota agencies. Minnesota statute Section 471.59, subdivision 1, known as the Joint Powers Act, defines the governmental entities that may join the CPV program. They include counties, cities, towns, townships, and school districts, as well as other entities. The SFMTA is eligible to join the CPT under Section 471.59, subdivision 1.

The Cooperative Purchasing Agreement will remain in effect until June 30, 2021 or until

canceled by either party upon 30 days' written notice to the other party. It contains a provision indemnifying MMD and its employees "from any loss, damage or expense, including payment of attorney fees allowable by law, which arise or may arise from [SFMTA's] use of [the] joint powers agreement and from any dispute or claim arising from any transaction between the [SFMTA] and [MMD's] vendors, whether or not the loss, damage, dispute or claim arises during or after the period of this cooperative agreement."

By purchasing buses through the CPV, staff estimates that the whole bus negotiated procurement process will be reduced by approximately six months. The savings that can be realized from the procurement process include three months for advertising, and three months for the bid evaluation and negotiation phases of the negotiated procurement.

ALTERNATIVES CONSIDERED:

Other alternatives considered are to purchase option vehicles from other transit authorities and purchase vehicles through the regular RFP process. These alternatives were considered only as back-up to the CPV since purchasing option vehicles from other transit authorities is not very flexible while purchasing vehicles through the regular RFP process will take longer when compared to the CPV.

FUNDING IMPACT:

There is no charge for entering into this agreement.

OTHER APPROVAL RECEIVED OR STILL REQUIRED:

The City Attorney's Office has reviewed this calendar item.

Staff will return to the SFMTA Board after finalizing an agreement with the winning diesel bus manufacturer from the Minnesota CPV.

RECOMMENDATIONS:

Staff recommends that the SFMTA Board authorize the Director of Transportation to execute the Cooperative Purchasing Agreement with the State of Minnesota.

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. 12-02

WHEREAS, San Francisco Municipal Transportation Agency (SFMTA) staff recommends using a Cooperative Purchasing Venture (CPV) established by the State of Minnesota through its Materials Management Division (MMD) to purchase replacement vehicles for its fleet of diesel buses; and,

WHEREAS, Minnesota established the Cooperative Purchasing Venture to allow eligible entities to purchase goods, certain services and utilities from contracts established by the MMD for Minnesota state agencies and other governmental entities; and,

WHEREAS, The Minnesota Statutes § 471.59, subdivision 1, known as the Joint Powers Act, defines the governmental entities that may join the CPV program which include counties, cities, towns, townships and school districts, as well as other entities; and,

WHEREAS, The SFMTA is eligible to join the Cooperative Purchasing Venture under Minnesota Status § 471.59, subdivision 1; and,

WHEREAS, The SFMTA will be able to reduce the time it takes to procure replacement buses by about six months by buying replacement buses through the CPV and may realize cost savings from the CPV; and,

WHEREAS, The MMD of Minnesota requires government agencies that wish to join the venture to sign a Cooperative Purchasing Agreement; and

WHEREAS, The Cooperative Purchasing Agreement will remain in effect until June 30, 2021 and includes a provision requiring indemnification of MMD by the SFMTA; and

WHEREAS, Entering into the Cooperative Purchasing Agreement is in the best interests of the City and SFMTA; now, therefore be it

RESOLVED, That the SFMTA Board of Directors authorizes the Director of Transportation to execute a Cooperative Purchasing Agreement with the State of Minnesota, through its commissioner of Administration, Materials Management Division, for procurement of diesel coaches.

I certify that the foregoing resolution was adopted by the Municipal Transportation Agency Board of Directors at its meeting of March 6, 2012.

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

COOPERATIVE PURCHASING AGREEMENT

Under the Authority of Minnesota Statutes § 16C.03, Subdivision 10
and
Minnesota Statutes § 471.59, Subdivision 1

This Joint Powers Agreement is between the State of Minnesota, through its commissioner of Administration, Materials Management Division ("Division") and

THE CITY AND COUNTY OF SAN FRANCISCO, THROUGH ITS MUNICIPAL TRANSPORTATION AGENCY ("Authorized Entity").

Pursuant to Minn. Stat. § 16C.03, subd. 10, the Division acquires various supplies, commodities, equipment, and services for state agencies and governmental units (as defined in Minn. Stat. § 471.59, subd. 1) through competitive bidding or requests for proposals. The Division, through Minn. Stat. § 16C.11, and the Authorized Entity wish to combine their purchasing functions, as specifically provided below, so that the Authorized Entity may avail itself of the prices which have been agreed upon by the Division and its vendors.

The parties agree as follows:

- 1. Term.** This joint powers agreement will be effective on the date State obtains all required signatures under Minn. Stat. § 16C.05, subd. 2, and remains in effect until **June 30, 2021**, or until canceled by either party upon 30 days' written notice to the other party.
- 2. Services.** The Division will make its contracts for commodities and services, as listed on the State of Minnesota's Contract Index, available to the Authorized Entity.
- 3. Use of Division Contracts.** To purchase commodities or services from the Division's contracts, the Authorized Entity must issue a purchase order in accordance with the terms and conditions of the Division's contracts and any requirements applicable to the Authorized Entity's governing body. The Authorized Entity must send purchase orders directly to the applicable vendor and will make payments directly to the vendor in accordance with its established procedures and terms of the Division's contract. The Authorized Entity will not use the goods available under the Division's contracts for the purposes of resale. The Authorized Entity must be the end user of the goods purchased.
- 3. Liability.** The Authorized Entity agrees that neither the Division nor its employees personally assume responsibility or liability for any amounts due or claimed to be due pursuant to any purchase order entered issued by the Authorized Entity. The Authorized Entity will indemnify, save and hold harmless the Division and its employees from any loss, damage or

COOPERATIVE PURCHASING AGREEMENT

Under the Authority of Minnesota Statutes § 16C.03, Subdivision 10
and
Minnesota Statutes § 471.59, Subdivision 1

expense, including payment of attorney fees allowable by law, which arise or may arise from the Authorized Entity's use of this joint powers agreement and from any dispute or claim arising from any transaction between the Authorized Entity and the Division's vendors, whether or not the loss, damage, dispute or claim arises during or after the period of this cooperative agreement. The Division's liability will be governed by the provisions of Minn. Stat. § 3.736.

CITY AND COUNTY OF SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY

"Authorized Entity certifies that the appropriate person(s) have executed this cooperative agreement on behalf of the Authorized Entity as required by applicable articles, bylaws, resolutions or ordinances."

By:

(Authorized Signature)

(Title)

(Address)

(Date)

STATE OF MINNESOTA

"By Delegation"

By:

Materials Management Division

(Date)

Permit Number/Access Code:
