

STAFF REPORT

SUBJECT: Purchase of Sixteen New 40-Foot Diesel-Electric Hybrid Replacement Buses  
FROM: Jennifer Yeamans, Senior Grants & Management Specialist  
DATE: September 27, 2021

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**Action Requested**

Approve Resolution 30-2021, authorizing the Executive Director to execute documents in a form approved by Legal Counsel to purchase sixteen (16) new 40-foot diesel-electric hybrid replacement buses in accordance with LAVTA's 2021 Capital Improvement Program.

**Background**

In 2007, LAVTA purchased two 29-foot hybrid buses from Gillig LLC, and in 2009, LAVTA purchased two 29-foot hybrid buses and twelve 40-foot hybrid buses from Gillig. All sixteen of these buses are now at the end of their useful life and due to be taken out of service by 2023, according to the agency's Capital Improvement Program (CIP) for Fiscal Years 2021 through 2025, which the Board approved in March 2021. The CIP also identified a need to replace the four 29-foot vehicles with 40-foot vehicles to accommodate ridership increases in recent years, particularly during the morning-peak pull, and the potential need for ongoing social distancing measures.

Based on this replacement schedule, LAVTA applied for FY2021 funding available from the Federal Transit Administration (FTA) Section 5307 Urbanized Area and Section 5339 Bus & Bus Facilities formula programs for sixteen 40-foot replacement buses and related support equipment including fareboxes, automatic vehicle locators (AVLs), and radios. In April 2021, the Metropolitan Transportation Commission (MTC) programmed \$11,574,837 in FTA funds to LAVTA for these purposes, and FTA approved MTC's programming in May. A minimum 20% local match is required to use these funds, and the CIP identified \$2,710,400 in Transportation Development Act (TDA) Article 4.0 funding as local match, while noting that additional local match may be required at the time of purchase due to bus-pricing ceilings established by MTC's Transit Capital Priorities Program, which sets regional policy for the distribution of FTA formula funds to the region's transit operators by urbanized area.

**Discussion**

Having secured the maximum level of federal grant funding available for the purchase, staff proceeded with procurement activities including verification of specifications desired and identification of qualified vendors based on LAVTA's needs. In doing so, staff learned that certain equipment desired with this purchase would no longer be available from its supplier

after September 30 of this year. Availability of this equipment introduced a time constraint for purchasing buses in the current model year, as staff confirmed independently with the supplier that its successor product was still in testing for unknown duration and not yet available for purchase through qualified vendors and delivery within the timeframe LAVTA desired to be able to retire its oldest buses, one of which has already been taken out of service permanently due to mechanical failure.

Given the time constraint, staff began to look for existing, qualified contracts through which LAVTA could purchase the desired equipment, as an alternative to issuing or participating in a formal Request for Proposals (RFP). A formal RFP process would take considerable staff resources and time to result in a contract and would not guarantee that LAVTA would secure more favorable pricing and/or contract terms than an existing available contract, particularly given the present economic environment.

LAVTA's Procurement Policy encourages the use of appropriate intergovernmental agreements when possible in order to reduce duplicative effort and achieve cost economies. Staff researched both existing state cooperative purchasing agreements as well as joint procurements conducted by other agencies and identified one contract between Gillig LLC and the Unified Government of Athens-Clarke County, Georgia, that could supply the equipment needed within the timeframe required by LAVTA to complete the purchase per its specifications. Consistent with LAVTA's Procurement Policy, FTA third-party contracting guidance permits agencies to utilize existing contract rights held by another agency as a method of acquiring property when the agency finds it advantageous to do so, including existing contracts which, when formed, were intended to be limited to other parties, a process more commonly known as "piggybacking."

LAVTA staff in consultation with Legal Counsel has conducted its due diligence in ensuring the contract between Gillig and Athens-Clarke County, Georgia, was competitively sourced to meet FTA's required fair and reasonableness pricing standards and proper contracting procedures were undertaken during the original contracting process. In particular, the resulting contract has been reviewed to ensure it incorporates the terms, conditions, and certifications necessary to meet all relevant FTA guidelines and requirements.

Two members of the original consortium led by the Unified Government of Athens-Clarke County, Georgia, are willing to assign a total of 16 options to purchase 40-foot diesel-electric hybrid buses off of this contract, which would fulfill LAVTA's purchasing needs for this year. Staff has further determined that the prices established in the original contract are still fair and reasonable, and that the minimum and maximum quantities named in the original procurement by the consortium members were limited to what those agencies could reasonably expect to need, but nevertheless were later found to be in excess of their needs, and that the quantities to be assigned to LAVTA are not in excess of the amounts available under the original contract.

**Fiscal Impact**

The costs and revenues associated with this purchase are as follows:

<b>Expenditures</b>	<b>Each</b>	<b>Total</b>
16 40-foot hybrid buses and related support equipment, including all taxes, fees, warranties, and delivery	\$939,593	\$15,033,488

<b>Revenues</b>	<b>%</b>	<b>Total</b>
FTA 5307/5339	77%	\$11,574,837
Local Match	23%	\$3,458,651
<b>Total</b>	<b>100%</b>	<b>\$15,033,488</b>

Funds for this purchase are included in the agency’s FY22 budget, although LAVTA does not expect to take delivery of the buses until next fiscal year. MTC’s maximum price allowed (in terms of programmed funding) for a 40-foot diesel-electric bus in FY2021 per regional policy is \$847,000, meaning that is the maximum price at which MTC will program the full 80% in federal funding (\$677,600 per bus), and therefore any additional funding required by agencies must comprise non-federal funds. MTC’s price list is based off a survey of the region’s bus operators and represents varied purchasing circumstances around the region experienced by different transit agencies. The additional TDA funding required to complete the purchase with LAVTA’s desired specifications will be reprogrammed in the Capital Improvement Program and updated accordingly in the FY22-23 agency budget.

**Recommendation**

Staff recommends the Board of Directors approve Resolution 30-2021, authorizing the Executive Director to execute documents in a form approved by Legal Counsel to purchase sixteen (16) new 40-foot diesel-electric hybrid replacement buses in accordance with LAVTA’s 2021 Capital Improvement Program.

Attachments:

1. Resolution 30-2021

*Approved:* \_\_\_\_\_

**RESOLUTION NO. 30-2021**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
LIVERMORE AMADOR VALLEY TRANSIT AUTHORITY  
AUTHORIZING THE PURCHASE OF SIXTEEN 40-FOOT HYBRID  
REPLACEMENT BUSES**

WHEREAS, LAVTA purchased two heavy-duty buses in 2007 and fourteen heavy-duty buses in 2009, all with a useful life of twelve years; and

WHEREAS, the two 2007 vehicles described above were due for retirement in 2019 and the fourteen 2009 vehicles are due for retirement in 2021, and staff has identified a need to replace all sixteen vehicles, one of which has already been taken out of service due to mechanical failure; and

WHEREAS, in March 2021, LAVTA adopted Resolution 07-2021 establishing the agency's Capital Improvement Program for Federal Fiscal Years (FY) 2021-2025 including replacement of the sixteen fixed-route vehicles and additional related components in the FY2021 funding cycle, and subsequently applied to the Metropolitan Transportation Commission (MTC) for Federal Transit Administration (FTA) formula funding apportioned to LAVTA's service area and programmed to support the region's Transit Capital Priorities Policy; and

WHEREAS, in May 2021, FTA approved MTC's programming of \$11,574,837 in FTA formula funds for LAVTA's purchase of 16 replacement vehicles and related support equipment including fareboxes, automatic vehicle locators, and radios, making these funds available for these purchases; and

WHEREAS, the FTA funding requires a minimum 20 percent local match, which is included in LAVTA's approved FY2021-2022 budget; and

WHEREAS, LAVTA's existing fleet of buses uses certain equipment that requires specialized training to maintain and which achieves greater service reliability than comparable alternatives, and buses will not be manufactured with such equipment after 2021; and

WHEREAS, if LAVTA were to acquire replacement buses that use different equipment, it could reasonably expect increased and/or more frequent down times, resulting in significant potential impacts on service reliability; and

WHEREAS, LAVTA does not have sufficient time to release a formal Request for Proposals from qualified bus manufacturers to acquire replacement buses that use the desired equipment before such equipment is no longer available, and as a result, staff has identified an existing, qualified contract between the Unified Government of Athens-Clarke County, Georgia and Gillig LLC (Gillig) with sufficient unused options that may be assigned to LAVTA to procure vehicles with the desired equipment as specified; and

WHEREAS, said contract permits parties to the contract (Consortium members) to assign contract rights for purchases under the terms and conditions of the contract to others; and

WHEREAS, FTA permits the post-award assignment of contractual rights to others who did not participate in the original procurement if certain requirements are met, and there are sufficient unused options under the contract for the purchase of sixteen buses and such options may be reassigned by a Consortium member if the option is no longer necessary to support the Consortium member's needs; and

WHEREAS, two Consortium members, the Unified Government of Athens–Clarke County, Georgia, and Gwinnett County Transit, are willing to assign a total of sixteen options to purchases Gillig buses under the contract to LAVTA because such options are no longer needed to support their respective agencies; and

WHEREAS, LAVTA staff and Legal Counsel have analyzed the contract between the Unified Government of Athens–Clarke County, Georgia and Gillig and found it to be cost-effective, consistent with LAVTA's Procurement Policy, and procured in accordance with FTA's piggybacking requirements set forth in FTA's Third-Party Contracting Guidance (Circular 4220.1F);

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Livermore Amador Valley Transit Authority that the Executive Director is authorized to execute documents, in forms approved by Legal Counsel, to procure sixteen new 40-foot diesel-electric hybrid replacement buses for a total amount not to exceed \$15,033,488, via assignment of existing, unused options from Athens–Clark County Transit and Gwinnett County Transit pursuant to the contract between the Unified Government of Athens–Clarke County, Georgia and Gillig LLC; and

BE IT FURTHER RESOLVED that the Board of Directors authorizes the Executive Director to expend a 5% contingency amount not to exceed \$751,674.40.

PASSED AND ADOPTED this 27th day of September 2021.

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Karla Brown, Chair

ATTEST:

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Michael Tree, Executive Director

APPROVED AS TO FORM:

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Michael Conneran, Legal Counsel