

BOARD of SUPERVISORS



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September 30, 2022

File No. 220947-2

Lisa Gibson
Environmental Review Officer
Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Dear Ms. Gibson:

On September 27, 2022, Mayor Breed submitted the following substituted Ordinance assigned to the Budget and Finance Committee:

File No. 220947-2

Ordinance authorizing the Municipal Transportation Agency to issue a Request for Proposals for a Communications Based Train Control System to be awarded by a contract with a term exceeding ten years; waiving the Administrative Code prohibition against issuing solicitations for a contract for general or professional services for a term longer than ten years; authorizing use of negotiated procurement procedures, stating that the award of the contract will be subject to the approval of the Board of Supervisors pursuant to Charter, Section 9.118(b); and adopting findings under the California Environmental Quality Act.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

Brent Jalipa

By: Brent Jalipa, Assistant Clerk
Budget and Finance Committee

Attachment

c: Devyani Jain, Deputy Environmental Review Officer
Joy Navarrete, Environmental Planning
Don Lewis, Environmental Planning

1 [Contracting Process - Communications Based Train Control System - Waiver of
2 Administrative Code Contract Prohibition and Authorization to Use Negotiated Procurement
3 Procedures]

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4 **Ordinance authorizing the Municipal Transportation Agency to issue a Request for**
5 **Proposals for a Communications Based Train Control System to be awarded by a**
6 **contract with a term exceeding ten years; waiving the Administrative Code prohibition**
7 **against issuing solicitations for a contract for general or professional services for a**
8 **term longer than ten years; authorizing use of negotiated procurement procedures,**
9 **stating that the award of the contract will be subject to the approval of the Board of**
10 **Supervisors pursuant to Charter, Section 9.118(b); and adopting findings under the**
11 **California Environmental Quality Act.**

12 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
13 **Additions to Codes** are in *single-underline italics Times New Roman font*.
14 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
15 **Board amendment additions** are in double-underlined Arial font.
16 **Board amendment deletions** are in ~~strikethrough Arial font~~.
17 **Asterisks (* * * *)** indicate the omission of unchanged Code
subsections or parts of tables.

18 Be it ordained by the People of the City and County of San Francisco:

19 Section 1. Background.

20 (a) The Municipal Transportation Agency’s (“SFMTA”) existing Automatic Train
21 Control System (“ATCS”) controls the movement of light rail vehicles in the Muni subways.
22 The ATCS is vital for efficient operation of the Muni subway: the ATCS allows Muni to operate
23 twice as many vehicles in the subway under ATCS control as it could operate under manual
24 train control. The ATCS was designed under a 1992 contract and placed into service in 1998.
25 Although the ATCS has been upgraded and improved since it was first put into service, the

1 ATCS's operating technology, software, and equipment are outdated and the ATCS is
2 reaching the end of its useful life.

3 (b) The SFMTA plans to issue a Request for Proposals ("RFP") in December 2022
4 to solicit proposals from qualified systems providers for a new Communications Based Train
5 Control System ("CBTC System") to replace the existing Muni ATCS. The new CBTC System
6 will operate trains in the Market Street Subway and the Central Subway employing state of the
7 art train control technology that will make subway operations faster, more reliable, and more
8 efficient. The new CBTC System will also provide train supervision and limited train protection
9 to the surface portions of the Muni light rail system.

10 (c) The CBTC System vendor will be selected based on best value criteria
11 described in the RFP, as authorized by Charter Section 8A.105(b)(1), which grants the
12 SFMTA exclusive authority over the administration of its contracts, and Administrative Code
13 Sections 21.05(b) and 21.4(a), which authorize City departments to issue requests for
14 proposals and to select vendors based on their qualifications and criteria other than price
15 alone. The SFMTA seeks authorization to build on that process by using negotiated
16 procurement procedures that Administrative Code Section 21.4(f) authorizes for mass-transit
17 vehicle procurement. Negotiated procurement procedures will allow the SFMTA to have
18 substantive communications with proposers after receipt of proposals to improve the quality
19 and reduce the overall cost of the CBTC System.

20 These procedures will permit the SFMTA, after reviewing and evaluating all proposals,
21 to better align its CBTC System specifications with proposers' available technology solutions,
22 consider cost-benefits issues, and modify insurance, bond, and other contract requirements in
23 consultation with the City's Risk Manager and City Attorney to conform to market conditions
24 and risk management considerations. The SFMTA would then request proposers submit
25 revised proposals based on the amended contract requirements, to which the SFMTA would

1 apply best value criteria to select one proposer's CBTC System and negotiate a contract for
2 award with that proposer. This process will allow the SFMTA greater flexibility in negotiating
3 the contract for a CBTC System, which will result in lower costs and a system that will better
4 meet SFMTA's transit needs.

5 (d) The contract for the new CBTC System will consist of two parts. The first part of
6 the contract will cover design of the CBTC System, procurement of software and equipment,
7 oversight of equipment installation on light rail vehicles, on trackways, and in control rooms,
8 and CBTC System testing and California Public Utilities Commission service certification, and
9 will have a term up to eight years. The second part of the contract will cover system support,
10 maintenance of proprietary equipment and software, supply of spare and replacement parts,
11 troubleshooting, software updates, and related professional services to assist the SFMTA in
12 maintaining and operating the CBTC System. The term for that second part of the contract
13 will be up to 20 years, comprising a 10-year base term and two five-year extension options, so
14 that following design, installation, and testing of the CBTC System, the selected CBTC
15 System vendor will provide parts, equipment, software updates, and support services for the
16 entire expected 20-year life of the new CBTC System.

17 (e) The SFMTA Board of Directors approved the SFMTA's request for this
18 ordinance at its meeting of October 4, 2022.

19 Section 2. Authorization to Issue Request for Proposals for a Professional Services
20 and Commodities Contract with a Term Longer than 10 Years for a Communications Based
21 Train Control System.

22 Administrative Code Section 21.9(a)(2) provides that a solicitation for a contract for
23 multiple years or with options to extend the term for multiple years shall not provide for a
24 single contract term or base term and extensions of the term that would exceed 10 years.
25 The total term of the proposed contract will be 28 years, with a design, implementation period

1 of eight years, followed by a support period of 20 years. The term restriction stated in Section
2 21.9(a)(2) is hereby waived to allow the support services period of the CBTC System contract
3 to have an initial 10-year term with two five-year options to extend, so that the services period
4 of the contract will cover the expected 20-year life of the train control system.

5 Section 3. Authorization to Purchase a Communications Based Train Control System
6 Using the Negotiated Procurement Procedures that Administrative Code Section 21.4(f)
7 Authorizes for the Purchase of Mass-Transit Vehicles.

8 The Municipal Transportation Agency is authorized to solicit and evaluate proposals for
9 a Communications Based Train Control System using the negotiated procurement procedures
10 that Administrative Code Section 21.4(f) authorizes for the purchase of mass-transit vehicles.

11 Section 4. Contract Award Subject to Charter Section 9.118.

12 The estimated total cost of the CBTC System design, equipment and software
13 procurement, installation oversight, and testing, and the cost of system support services and
14 spare and replacement parts and equipment will exceed \$10 million, and the total term of the
15 contract will exceed 10 years. Therefore, the contract will be subject to Board of Supervisors'
16 approval under Charter Section 9.118(b). After having selected a vendor and negotiated the
17 final terms and conditions of the contract, following SFMTA Board of Directors' approval of the
18 contract, the SFMTA will request Board of Supervisors' approval of the contract.

19 Section 5. Environmental Finding.

20 The Planning Department has determined that the actions contemplated in this
21 ordinance do not constitute a project under the California Environmental Quality Act ("CEQA")
22 (California Public Resources Code Sections 21000 et seq.) pursuant to Title 14 of the
23 California Code of Regulations Section 15060(c) because the action would not result in a
24 direct physical change in the environment, or a reasonably foreseeable indirect physical
25 change in the environment. The action is therefore not subject to CEQA review. Said

REVISED LEGISLATIVE DIGEST

(Substituted, 9/27/2022)

[Contracting Process - Communications Based Train Control System - Waiver of Administrative Code Contract Prohibition and Authorization to Use Negotiated Procurement Procedures]

Ordinance authorizing the Municipal Transportation Agency to issue a Request for Proposals for a Communications Based Train Control System to be awarded by a contract with a term exceeding ten years; waiving the Administrative Code prohibition against issuing solicitations for a contract for general or professional services for a term longer than ten years; authorizing use of negotiated procurement procedures, stating that the award of the contract will be subject to the approval of the Board of Supervisors pursuant to Charter, Section 9.118(b); and adopting findings under the California Environmental Quality Act.

Existing Law

Administrative Code Chapter 21 governs the City's procurement of commodities and services, including technology systems, software and related professional services. Administrative Code, Section 21.9(a)(2) prohibits a department from issuing a solicitation for a contract for general or professional services for a term longer than 10 years.

Amendments to Current Law

The proposed uncodified ordinance will: (1) waive the application of Administrative Code, Section 21.9(a)(2), and will authorize the SFMTA to issue a Request for Proposals for contract for a new Communications Based Train Control System with a term longer than 10 years; and, (2) authorize the SFMTA to procure a new Communications Based Train Control System using the negotiated procurement procedures that Administrative Code Section 21.4(f) authorizes for procuring mass-transit vehicles.

Background Information

The Municipal Transportation Agency's ("SFMTA") existing Advanced Train Control System ("ATCS") controls the routing, speed, acceleration, braking, and headway (distance between vehicles) of light rail vehicles in the Muni subways. The ATCS is vital for efficient operation of the subway – the ATCS allows Muni to operate twice as many vehicles in the subway than Muni could operate under manual train control. The ATCS was designed under a 1992 contract and placed into service 1998. Although the ATCS has been upgraded and improved since it was first put into service, much of the technology by which the ATCS operates is outdated and the ATCS is reaching the end of its useful life.

The SFMTA plans to issue a Request of Proposals (“RFP”) in December 2022 to solicit proposals from qualified systems providers for a new Communications Based Train Control System (“CBTC System”) to replace Muni’s existing ATCS. The new CBTC System will operate trains in the Market Street Subway and the Central Subway employing state of the art train control technology that will make subway operations faster, more reliable, and more efficient. The new CBTC System will also provide train supervision and limited train protection to the surface portions of the Muni light rail system. The CBTC System vendor will be selected based on best value criteria described in the RFP, as authorized by Charter, Section 8A.105(b)(1), which grants the SFMTA exclusive authority over the administration of its contracts, and Administrative Code, Sections 21.05(b) and 21.4(a), which authorize City departments to issue requests for proposals and to select vendors based on their qualifications and criteria other than price alone.

The SFMTA seeks authorization to build on that process by evaluating proposals for the CBTC System using the negotiated procurement procedures that Administrative Code Section 21.4(f) authorizes for mass-transit vehicle procurement. Negotiated procurement procedures will allow the SFMTA to have substantive communications with proposers after receipt of proposals to improve the quality and reduce the overall cost of the CBTC System. These procedures will permit the SFMTA, after reviewing and evaluating all proposals, to better align its CBTC System specifications with proposers’ available technology solutions, consider cost-benefits issues, and modify insurance, bond and other contracts requirements in consultation with the City’s Risk Manager and City Attorney to conform to market conditions and risk management considerations. The SFMTA would then request proposers submit revised proposals based on the amended contract requirements. The SFMTA would apply best value criteria to evaluate and rank the revised proposals, select one proposer’s system, and negotiate a contract for award with that proposer. This process will allow the SFMTA greater flexibility in negotiating the contract for a CBTC System, which will result in lower costs and a system that will better meet SFMTA’s transit needs.

CBTC Systems are comprised of proprietary equipment and software. SFMTA staff will perform routine maintenance, parts replacement, and repairs to the new CBTC System and its supporting infrastructure, but the SFMTA will need to obtain professional services from the CBTC System vendor to perform advanced equipment repairs and software maintenance that SFMTA employees are unable to perform.

The contract for the new CBTC System will consist of two parts, with a total term of up to 28 years. The first part of the contract will have a term of up to eight years, and will cover CBTC System design, procurement of software and equipment, oversight of equipment installation on light rail vehicles, on trackways, and in control rooms, testing and California Public Utilities Commission service certification. The second part of the contract will have a term of up to 20 years, and will cover system support, maintenance that SFMTA employees cannot perform, supply of spare and replacement parts, trouble shooting, software updates, and related professional services to assist the SFMTA in maintaining and operating the CBTC System. The term for this services part of the contract will comprise a 10-year base term and two five-

year extension options, so that following design, installation and testing of the CBTC System, the selected CBTC System vendor will provide parts, equipment, software updates, and support services for the entire expected 20-year life of the CBTC System.

The SFMTA Board of Directors approved the SFMTA's request for this ordinance at its meeting of October 4, 2022.

The Planning Department has determined that the actions contemplated in the proposed ordinance do not constitute a project under the California Environmental Quality Act ("CEQA") (California Public Resources Code Sections 21000 et seq.) pursuant to Title 14 of the California Code of Regulations Section 15060(c) because the action would not result in a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. The action is therefore not subject to CEQA review. Said determination is on file with the Clerk of the Board of Supervisors in File No. _____.