

Item Number					
Division & Division Head Name: VP Materiel, Stephen M. Plochochi					
Division Head Signature & Date 					
Board Reviews					
Order	To	Date	Approval	Info	Other
Internal Approvals					
Order	Approval	Order	Approval		
1 <i>NS</i>	Executive VP	<i>5/13/11</i>	President		
2 <i>X</i>	Senior VP, Subways	6			
3 <i>X</i>	VP, Gen. Counsel	7			
4 <i>X</i>	Budget	8			

<b>SUMMARY INFORMATION</b>	
Vendor Name Bombardier Transit Corporation	Contract Number R34179
Description Purchase of 300 New "B" Division Subway Cars	
Total Amount \$599,473,746	
Contract Term (including Options, if any) April 2012 – December 2018 (includes 2 Yr. Warranty)	
Option(s) included in Total Amount?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Renewal?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Procurement Type <input checked="" type="checkbox"/> Competitive <input type="checkbox"/> Non-competitive	
Solicitation Type <input checked="" type="checkbox"/> RFP <input type="checkbox"/> Bid <input type="checkbox"/> Other:	
Funding Source <input type="checkbox"/> Operating <input checked="" type="checkbox"/> Capital <input checked="" type="checkbox"/> Federal <input type="checkbox"/> Other:	

**Narrative**

**I. PURPOSE:** To obtain Board approval for NYC Transit to award contract R34179 to Bombardier Transit Corporation (Bombardier) to design, furnish and deliver 300 new "B" Division subway cars and related non-car items such as spare parts, special tools, diagnostic test equipment, technical documentation and training.

**II. DISCUSSION:** The MTA 2010 – 2014 Capital Program includes \$748 Million for the purchase of 340 "B" Division Subway Cars in the format of 290 base award cars and an option for an additional 50 cars. Based on the technical qualifications and a comparison of best and final offers (BAFOs) from ALSKAW LLC (a LLC comprised of ALSTOM and Kawasaki) and Bombardier, NYC Transit recommends award of a contract to Bombardier for 300 cars in the amount of \$599,473,746. The capital award value of this contract including all costs, i.e., bid; bid contingency, design, in-house and consultant construction administration and NYC Transit force account labor, totals \$735.6M, resulting in a capital budget savings of \$12.4M.

In June 2010, NYC Transit issued a Request for Proposal (RFP) which invited carbuilders to submit proposals for a single award of 290 cars with options for 50 and 80 cars. In compliance with Public Authorities Law § 1209, the RFP was advertised in the New York State Contract Reporter and the New York Post, and was also placed on the MTA website. Nine separate vendors purchased the RFP package.

Initial price and technical proposals for 290 cars were received on November 12, 2010 from ALSKAW (Compliant \$845,419,893 – Alternate \$733,120,713) and Bombardier (Compliant \$674,045,024). Prices for option cars were also provided. The proposals were evaluated by the Selection Committee in accordance with the advertised criteria which included technical proposal and overall technical qualifications, overall project cost, best value and other relevant matters. Both proposers were invited for oral presentations and ultimately for negotiations.

Negotiations were held with both proposers between June and October, 2011. Staff worked with both proposers from a technical and pricing perspective to enable them to offer the most competitive proposal while ensuring that each would be technically acceptable. Detailed negotiations of all of the pricing elements and commercial alternatives offered such as bonding and payment schedules were conducted. Technical negotiations with ALSKAW centered on its alternate proposal in order to maximize the potential to integrate the value of a similar car design previously built by ALSKAW (1,662 R160 cars). With regard to Bombardier, the NYC Transit negotiations team's focus included confirming that the configuration of the proposed car and the technical solutions proposed conformed to NYC Transit's specifications.

A commitment was secured from each proposer to make parts available for twenty years after the warranty for the last car delivered has expired. Also, the proposers agreed to provide cost disclosure to NYC Transit for its procurement of sole source parts in the after-market as well as a cap on profit. This provision for cost disclosure and a cap on profit will also flow down to the major subcontractors who in most cases are sole-source suppliers in the aftermarket for parts.

Based on a recommendation from Oliver Wyman, a consultant hired by the MTA to recommend strategies for reducing costs in the agencies' acquisition of rolling stock, staff negotiated a "product cost-down" provision as part of the contract terms and conditions. Under this provision, which is a form of post-award value engineering, an incentive is granted to the car builder to identify and implement, including with its subsystem component providers, improved design, processes or procedures to achieve an acceptable product at lower cost. Any savings achieved will be shared between the carbuilder and NYC Transit.

In Q3 2011, the original car quantity requirements were reassessed. This R179 purchase had originally been structured with a base order of 290 cars plus an option of 50 cars as a result of funding constraints. An option for 80 additional R179 cars was later included, contingent upon additional funding, for 2nd Avenue Subway Phase I service. A reassessment of projected ridership growth as well as anticipated changes in ridership due to changes in demographics in certain parts of New York City led to the conclusion that 300 new cars would satisfy NYC Transit's needs in lieu of the original 290 plus 50 cars; this change will be reflected in the next administrative update to the 2010-2014 Capital Program. It was also decided to delete the second option of 80 cars as it was determined that car requirements for 2nd Avenue Subway Phase I service can be accommodated with existing spare cars. The 300 cars shall be used for replacement of R32 and R42 cars.

After the change in car quantities, negotiations were completed and requests for BAFOs were sent on October 14, 2011. Responses were received on February 7, 2012. Bombardier's BAFO, which is compliant with the RFP, is \$599,473,746. ALSKAW's alternate BAFO is \$657,003,141. These BAFO prices (inclusive of all related non-car items) reflect NYC Transit's selection of acceptable credits delineated in the price schedule from each proposer. The contract price differential between Bombardier's compliant BAFO and ALSKAW's alternate BAFO is \$57,529,395 (8.8%). (Note: ALSKAW's compliant offer, i.e. full compliance with the R179 Technical Specification with no exceptions, was deemed unfavorable due to its significantly higher price of \$785,832,434.) The final prices from Bombardier and ALSKAW are 18.5% and 5.7% respectively below the corresponding in-house estimates. As compared with the initial proposals, the final negotiated BAFO prices achieved savings of \$74M (11.1%) for Bombardier and \$76M (10.4%) for ALSKAW. These savings are calculated from the initial pricing for the base order of 290 cars and the BAFO pricing for 300 cars.

Evaluative credits were applied to both proposers for the improved delivery schedules each offered as against the contractual delivery schedule as well as for differences in car weight. These respective credits did not yield an appreciable change to the overall price variance between the competing proposals.

Procurement, NYC Transit's independent consultant Louis T. Klauder and Associates, NYC Transit's Cost/Price Analysis Unit and NYC Transit's Division of Car Equipment reviewed the prices and concluded that Bombardier's price of \$599,473,746 is fair and reasonable. Bombardier is a qualified carbuilder of NYC Transit subway cars and has performed satisfactorily on various NYC Transit projects for subway cars, including the R62A (824 cars) and R142 (1030 cars) projects.

The Selection Committee evaluated the technical proposals, technical qualifications, pricing and other relevant matters for both proposers. In technical merit, ALSKAW ranked higher than Bombardier; however the Selection Committee determined that the combination of Bombardier's acceptable technical proposal and significantly lower price provided the best overall value to NYC Transit and unanimously recommended Bombardier for award. The Executive Committee concurred with the Selection Committee's recommendation.

A review of its financials by NYC Transit's Controller's Office found that there is reasonable assurance that Bombardier is financially qualified to perform this contract. Prior to submission of the BAFOs, a potential responsibility issue arose that led NYC Transit to request the assistance of the MTA Inspector General. The Inspector General's inquiry concluded that Bombardier committed no impropriety that impaired the integrity of the procurement itself. It was ultimately determined, after a responsibility hearing conducted by NYC Transit, that Bombardier is a responsible contractor for the purposes of this award. In addition, NYC Transit's background search of Bombardier and its proposed subcontractors with a potential subcontract value of \$1M or more also disclosed no significant adverse information within the meaning of the Responsibility Guidelines.

The test cars (10 cars) will be delivered 31 months after Notice of Award (NOA). Delivery of production cars will commence 38 months after NOA and complete 56 months after NOA.

**III. D/M/WBE INFORMATION:** Because this Contract is FTA funded, the FTA Transit Vehicle Manufacturer (TVM) program applies. Bombardier complies with this FTA program.

**IV. CAPITAL PROGRAM REPORTING:** This contract has been reviewed for compliance with the requirements of the 1986 legislation applicable to Capital Contract Awards and necessary inputs have been secured from responsible functional departments.

**V. IMPACT ON FUNDING:** This contract will be funded with FTA funds. The approved 2010-2014 Capital Program includes \$748.0 million for this project. The capital award value of this contract for 300 cars, including all costs, i.e., bid; bid contingency, design, in-house and consultant construction administration and NYC Transit force account labor, totals \$735.6M, resulting in a budget surplus of \$12.4M. A WAR certificate will be requested and the contract will not be executed until a WAR Certificate has been issued.

**VI. ALTERNATIVES:** None recommended. A new solicitation is unlikely to result in better pricing and will prolong NYC Transit's ability to replace cars in the existing fleet which have exceeded their useful life.

**VII. RECOMMENDATION:** It is recommended that the Board approve the award of a competitively negotiated contract to Bombardier in the amount of \$599,473,746 to design, furnish and deliver 300 R179 subway cars and related non-car items such as spare parts, special tools, diagnostic test equipment, technical documentation and training for the "B" Division fleet.