

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
ACTION AGENDA SUMMARY

DEPT: Public Works *mbw*

BOARD AGENDA # \*C-1

Urgent  Routine

AGENDA DATE September 29, 2009

CEO Concur with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Approval to Authorize the Purchase of One Vac-Con, Inc. 2009 Combination Storm Drain Cleaner Mounted on a Peterbilt Cab Chassis

STAFF RECOMMENDATIONS:

- 1) Authorize the purchase of one Vac-Con, Inc. 2009 Combination Storm Drain Cleaner mounted on a Peterbilt cab chassis in the amount of \$350,239.35.
- 2) Authorize the Purchasing Agent/General Services Agency Director to purchase the equipment through the Houston-Galveston Area Council (HGAC) contract.

FISCAL IMPACT:

Public Works Morgan Shop is funded through equipment rental charges, which are based on the cost of acquiring, maintaining, and replacing equipment. Sufficient funds are available in the Public Works Morgan Shop budget to cover the cost of purchasing the Combination Storm Drain Cleaner. The purchase price of the Storm Drain Cleaner is \$350,239.35, including shipping costs.

BOARD ACTION AS FOLLOWS:

No. 2009-654

On motion of Supervisor Monteith, Seconded by Supervisor Grover

and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Grover, Monteith, and Chairman DeMartini

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) \_\_\_\_\_ Denied

3) \_\_\_\_\_ Approved as amended

4) \_\_\_\_\_ Other:

MOTION:

*Christine Ferraro*

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

## Approval to Authorize the Purchase of One Vac-Con, Inc. 2009 Combination Storm Drain Cleaner Mounted on a Peterbilt Cab Chassis

### **DISCUSSION:**

On June 15, 2008, the California Air Resource Board's adopted Fleet Rule, Title 13, Article 4, Section 2022, 2022.1, California Code of Regulations, to reduce diesel particulate matter and criteria emissions from in-use on-road diesel-fueled vehicles. Target dates to meet compliance of this rule are predetermined by the percentage of trucks replaced or retrofitted. There are annual reduction compliance targets through the year 2012, and the purchase of this Combination Storm Drain Cleaner Truck will help the Department meet the target date of July 1, 2012.

The Department of Public Works Morgan Shop Division provides and maintains equipment for the Road and Bridge Operations and Maintenance Division. The Fiscal Year 2009-2010 Adopted Proposed Budget approved the purchase of one Storm Drain Cleaner to fulfill the Road and Bridge Division's need for a new Combination Storm Drain Cleaning Truck, commonly referred to as a Suction Truck. The Department currently has one Suction Truck, but it will not meet the new regulations starting July 2012. The proposed purchase of the new vehicle will replace the existing truck with a cleaner burning vehicle, reducing emissions, and enabling the Department to be in compliance with California Air Resource Board's adopted Fleet Rule, Title 13, Article 4, Section 2022 and 2022.1, California Code of Regulations.

The Storm Drain Cleaner plays an important role in storm drain maintenance. This equipment cleans and unclogs storm drainage inlets that are necessary to efficiently operate a positive storm drain system.

The Houston-Galveston Area Council (HGAC) has gone through a competitive bidding process. The Stanislaus County General Services Agency Purchasing Division executed a contract with HGAC in December 2004 for a cooperative purchasing program under which the eligible entities such as Stanislaus County can take advantage of a successful bidding process (see copy of interlocal contract attached). Since the competitive bidding process has already been completed by the HGAC, the timeline for purchase of the vehicle is shortened considerably. In addition, the Department contacted other vehicle suppliers to ensure that the HGAC contract provides the best value.

The 2009 Combination Storm Drain Cleaner is currently in stock at Vac-Con, Inc. waiting to be mounted on a new 60,000 gross vehicle weight cab-chassis. Vac-Con, Inc. is a nationwide manufacturer of storm drain and sewer cleaning equipment. The equipment is manufactured in Green Cove Springs, FL, and will be shipped to Municipal Maintenance Equipment in Sacramento, CA, the local authorized dealer. Vac-Con is responsible for loss during shipping and for the Combination Storm Cleaner until it is received by the Department of Public Works. The shipping costs are included in the purchase price of \$350,239.35. Payment to Vac-Con, Inc. will be made once the vehicle is in Public Works' possession. The Department anticipates delivery of the vehicle in February of 2010.

Approval to Authorize the Purchase of One Vac-Con, Inc. 2009 Combination Storm Drain Cleaner Mounted on a Peterbilt Cab Chassis

**POLICY ISSUES:**

The Board should consider if this action is consistent with its priorities of providing a safe community, a healthy community and a well-planned infrastructure system.

**STAFFING IMPACT:**

There is no staffing impact associated with this item.

ME:lc  
Morgan Shop\Morgan\Board Items\Board Item\_Suction Truck 9-09

THIS INTERLOCAL CONTRACT ("Contract"), made and entered into pursuant to the Texas Interlocal Cooperation Act, Chapter 791, Texas Government Code (the "Act"), by and between the Houston-Galveston Area Council, hereinafter referred to as "H-GAC," having its principal place of business at 3555 Timmons Lane, Suite 120, Houston, Texas 77027, and The County of Stanislaus, a local government, a state agency, or a non-profit corporation created and operated to provide one or more governmental functions and services, hereinafter referred to as "End User," having its principal place of business at 1010 Tenth Street, Modesto, California

**WITNESSETH**

**WHEREAS**, H-GAC is a regional planning commission and political subdivision of the State of Texas operating under Chapter 391, Texas Local Government Code; and

**WHEREAS**, pursuant to the Act, H-GAC is authorized to contract with eligible entities to perform governmental functions and services, including the purchase of goods and services; and

**WHEREAS**, in reliance on such authority, H-GAC has instituted a cooperative purchasing program under which it contracts with eligible entities under the Act; and

**WHEREAS**, End User has represented that it is an eligible entity under the Act, and desires to contract with H-GAC on the terms set forth below;

**NOW, THEREFORE**, H-GAC and the End User do hereby agree as follows:

**ARTICLE 1: LEGAL AUTHORITY**

The End User represents and warrants to H-GAC that (1) it is eligible to contract with H-GAC under the Act because it is one of the following: a local government, as defined in the Act (a county, a municipality, a special district, or other political subdivision of the State of Texas or any other state, or a combination of two or more of those entities, a state agency (an agency of the State of Texas as defined in Section 771.002 of the Texas Government Code, or a similar agency of another state), or a non-profit corporation created and operated to provide one or more governmental functions and services, and (2) it possesses adequate legal authority to enter into this Contract.

**ARTICLE 2: APPLICABLE LAWS**

H-GAC and the End User agree to conduct all activities under this Contract in accordance with all applicable rules, regulations, ordinances and laws in effect or promulgated during the term of this Contract.

**ARTICLE 3: WHOLE AGREEMENT**

This Contract and any attachments, as provided herein, constitute the complete contract between the parties hereto, and supersede any and all oral and written agreements between the parties relating to matters herein.

**ARTICLE 4: PERFORMANCE PERIOD**

The period of this Contract shall be for the balance of the fiscal year of the End User, which began July 1, 2004 and ends June 30, 2005. This Contract shall thereafter automatically be renewed annually for each succeeding fiscal year, provided that such renewal shall not have the effect of extending the period in which the End User may make any payment due an H-GAC contractor beyond the fiscal year in which such obligation was incurred under this Contract.

**ARTICLE 5: SCOPE OF SERVICES**

The End User appoints H-GAC its true and lawful purchasing agent for the purchase of certain products and services through the H-GAC Cooperative Purchasing Program. End User will access the Program through HGACBuy.com and by submission of any duly executed purchase order, in the form prescribed by H-GAC to a contractor having a valid contract with H-GAC. All purchases hereunder shall be in accordance with (1) Texas statutes and procedures governing competitive bids and competitive proposals, (2) in accordance with specifications and contract terms established by H-GAC, and (3) at published prices listed on H-GAC's web site. Ownership (title) to products purchased through H-GAC shall transfer directly from the contractor to the End User.

(over)

**ARTICLE 6: PAYMENTS**

H-GAC will confirm each order and issue notice to contractor to proceed. Upon delivery of goods or services purchased, and presentation of a properly documented invoice, the End User shall promptly, and in any case within thirty (30) days, pay H-GAC's contractor the full amount of the invoice plus the assessed H-GAC administrative fee. All payments for goods or services will be made from current revenues available to the paying party. In no event shall H-GAC have any financial liability to the End User for any goods or services End User procures from an H-GAC contractor.

**ARTICLE 7: CHANGES AND AMENDMENTS**

This Contract may be amended only by a written amendment executed by both parties, except that any alternations, additions, or deletions to the terms of this Contract which are required by changes in Federal and State law or regulations are automatically incorporated into this Contract without written amendment hereto and shall become effective on the date designated by such law or regulation.

H-GAC reserves the right to make changes in the scope of products and services offered through the H-GAC Cooperative Purchasing Program to be performed hereunder.

**ARTICLE 8: TERMINATION PROCEDURES**

H-GAC or the End User may cancel this Contract at any time upon thirty (30) days written notice by certified mail to the other party to this Contract. The obligations of the End User, including its obligation to pay H-GAC's contractor for all costs incurred under this Contract prior to such notice shall survive such cancellation, as well as any other obligation incurred under this Contract, until performed or discharged by the End User.

**ARTICLE 9: SEVERABILITY**

All parties agree that should any provision of this Contract be determined to be invalid or unenforceable, such determination shall not affect any other term of this Contract, which shall continue in full force and effect.

**ARTICLE 10: FORCE MAJEURE**

To the extent that either party to this Contract shall be wholly or partially prevented from the performance within the term specified of any obligation or duty placed on such party by reason of or through strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, accident, order of any court, act of God, or specific cause reasonably beyond the party's control and not attributable to its neglect or nonfeasance, in such event, the time for the performance of such obligation or duty shall be suspended until such disability to perform is removed; provided, however, force majeure shall not excuse an obligation solely to pay funds. Determination of force majeure shall rest solely with H-GAC.

**ARTICLE 11: VENUE**

Venue and jurisdiction of any suit or cause of action arising under, or in connection with, this Contract shall lie exclusively in Harris County, Texas. Disputes between procuring party and Vendor are to be resolved in accord with the law and venue rules of the State of purchase.

**THIS INSTRUMENT HAS BEEN EXECUTED IN TWO ORIGINALS BY THE PARTIES HERETO AS FOLLOWS:**

County of Stanislaus  
Name of End User (local government, agency, or non-profit corporation)

1010 Tenth Street, Suite 5400  
Mailing Address

Modesto CA 95354  
City State ZIP Code

By: [Signature]  
Signature of chief elected or appointed official

James Nelson, Asst. Purchasing Agent  
Typed Name & Title of Signatory

12/22/04  
Date

Houston-Galveston Area Council  
3555 Timmons Lane, Suite 120, Houston, TX 77027

By: [Signature]  
Executive Director

Date: 1/6/05

Attest: [Signature]  
Manager

Date: Dec 29, 2004

APPROVED AS TO ~~NOTES~~ Facsimile copies of this document shall not be acceptable as ORIGINALS.  
STANISLAUS COUNTY COUNSEL

rev. 11/03

BY [Signature]  
Deputy County Counsel