

**Date:** May 25, 2016

**To:** Board of Directors

**From:** Neil McFarlane *Neil McFarlane*

**Subject:** **RESOLUTION 16-05-30 OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING A FIVE YEAR CONTRACT WITH CUMMINS INC. FOR THE PURCHASE OF CUMMINS ENGINE PARTS AND FLEETGUARD FILTRATION PRODUCTS**

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**1. Purpose of Item**

The purpose of this item is to request that the TriMet Board of Directors (“Board”) adopt a resolution authorizing the General Manager to execute a contract with Cummins Inc. (“Cummins”) for the purchase of Cummins engine parts and Fleetguard filtration products.

**2. Type of Agenda Item**

- Initial Contract
- Contract Modification
- Other \_\_\_\_\_

**3. Reason for Board Action**

Board authorization is required for all goods and services contracts obligating TriMet to pay in excess of \$500,000.

**4. Type of Action:**

- Resolution
- Ordinance 1<sup>st</sup> Reading
- Ordinance 2<sup>nd</sup> Reading
- Other \_\_\_\_\_

**5. Background**

Cummins engines parts are used on 656 revenue-service fixed route buses equipped with Cummins engines while Fleetguard (a division of Cummins) filtration products are used on the entire fleet, including 12 buses equipped with Detroit Diesel engines. The procurement of both Cummins engine parts and Fleetguard filters can only be obtained through either Cummins or authorized Cummins dealers. Prior to 2011, TriMet purchasing staff was limited to obtaining competitive quotes from Cummins dealers only. Direct purchases from Cummins were not possible as Cummins maintained a corporate practice of protecting the local dealer network. At the time, the typical dealer network mark-up price was 3-5% over and above the Cummins dealer price.

In 2011, Cummins determined that for large customers such as TriMet, the dealer network could not provide the level of service required. For example, Cummins authorized dealers are limited to weekly orders whereas TriMet requires more frequent deliveries to maintain lower stocking levels and to eliminate delays in repairing buses. Other issues included a lengthy process to approve warranty claims and, the local dealers did not support on-site warranty work or provide technical assistance. To better serve TriMet, Cummins and Fleetguard corporate authorized TriMet to purchase direct at dealer net pricing, the same pricing as all local Cummins dealers. The catalyst behind this offer was that Cummins was essentially handling all customer service aspects of our account despite the fact that local dealers were processing and delivering the orders.

The ability for TriMet to order directly from the factory was advantageous because it immediately lowered TriMet's cost for Cummins engine parts and Fleetguard products by 3% and eliminated the need for emergency orders that cost more to process. Additional administrative savings were obtained as returned parts credits and warranty claims were now processed directly through Cummins, saving valuable staff time by dealing with one contact. The new direct factory pricing agreement has worked quite well over the past five years, and it is TriMet's intent to continue this relationship with Cummins and Fleetguard.

#### **6. Procurement Process**

This is a sole-source contract for the related goods and services. The total amount of contract authorization requested is \$6,573,738. This includes all Cummins parts/major components and Fleetguard filters for five years, based on recent inventory purchases and forecasted demand. While Cummins authorized dealers could submit pricing via a competitive bid process, they would have to do so at a negative margin of at least 3% to obtain TriMet's business. Therefore, it would not be in TriMet's best interest nor the local dealers best interest to enter into a contractual agreement where the business is selling at a loss. Additionally, the Federal Transit Administration ("FTA") discourages entering into contracts where the price is not fair & reasonable for both parties.

#### **7. Diversity**

Cummins Northwest on Swan Island will handle all aspects of this contract. The Cummins Northwest territory includes branches in Washington, Alaska, Idaho and Montana with a total of 622 employees and a 43% minority group utilization. On a national basis, Cummins workforce reflects 28% minority group utilization and at least 5% of Cummins subcontracted work includes small disadvantaged business concerns owned and controlled by Disadvantaged Business Enterprise ("DBE") firms.

#### **8. Financial/Budget Impact**

The price of this proposed Cummins contract of \$6,573,738, is within budget estimates for bus maintenance. As such, the contract amount has been accounted for within TriMet's operating budget.

#### **9. Impact if Not Approved**

If this or a similar contract is not approved, TriMet's current contract with Cummins will expire and TriMet will be forced to issue numerous individual quotations to purchase Cummins and Fleetguard parts at a minimum increase of 3-5%.

**RESOLUTION 16-05-30**

**RESOLUTION OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRI-MET) AUTHORIZING A CONTRACT WITH CUMMINS INC. FOR THE PURCHASE OF CUMMINS ENGINE PARTS AND FLEETGUARD FILTRATION PRODUCTS**

**WHEREAS**, Tri-Met has authority under ORS 267.200 to enter into a contract with Cummins Inc. for the purchase of Cummins engine parts and Fleetguard filtration products (“Contract”); and

**WHEREAS**, the total amount of the Contract shall exceed \$500,000; and

**WHEREAS**, the TriMet Board of Directors (Board), by Resolution dated November 25, 2009, adopted a Statement of Policies requiring the Board to approve goods and services in excess of \$500,000;

**NOW, THEREFORE, BE IT RESOLVED:**

1. That the Contract shall be in conformance with applicable laws.
2. That the General Manager or his designee is authorized to execute the Contract.

Dated: May 25, 2016

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Presiding Officer

Attest:

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Recording Secretary

Approved as to Legal Sufficiency:

  
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Legal Department