

Date: October 27, 2021

To: Board of Directors

From: Sam Desue, Jr.

Subject: RESOLUTION NO. 21-10-47 OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING A CONTRACT WITH CECO, INC. (CARSON) FOR BULK R99 RENEWABLE HYDROCARBON DIESEL (RHD) FUEL (3 LOTS)

1. **Purpose of Item**

This Resolution requests that the TriMet Board of Directors (Board) authorize the General Manager or his designee to execute a contract with CECO, Inc. (Carson) to purchase bulk R99 renewable hydrocarbon diesel (RHD) fuel (3 Lots) (Contract).

2. **Type of Agenda Item**

- Initial Contract
- Contract Modification
- Other _____

3. **Type of Contract Procurement**

- Low Bid / Invitation to Bid (ITB)
- Request for Proposals (RFP) (inc. CM/GC)
- Request for Qualifications (RFQ) (Personal Services)
- Other (inc. sole source) _____

4. **Reason for Board Action**

Board authorization is required for all goods and services contracts obligating TriMet to pay in excess of \$1,000,000.

5. **Type of Action**

- Resolution
- Ordinance 1st Reading
- Ordinance 2nd Reading
- Other _____

6. **Background**

TriMet operates a fleet of approximately 700 transit buses and 285 paratransit mini-buses. The transit buses, paratransit mini-buses and vans have been fueled with a blend of Ultra-Low Sulfur Diesel (ULSD) and Biodiesel fuel (B100) that is blended in a 5% ratio (B5). As a result of testing engine performance and exhaust system cleanliness in a cross-section of its fleet, TriMet decided to transition from ULSD to R99 Renewable Hydrocarbon Diesel (RHD) fuel. It is expected that the change to R99 RHD will reduce maintenance material and

labor costs with respect to diesel particulate filter cleaning, as well as replacement of worn or failed exhaust treatment components. R99 RHD is a non-petroleum based product that is manufactured from used restaurant grease and other agricultural products. The change to R99 RHD will reduce maintenance material and labor costs and lower greenhouse gas emissions from TriMet’s bus fleet about 61% compared to the ULSD blend TriMet now uses, thus helping to achieve TriMet’s sustainability goal of a reduced carbon footprint during the transition to a zero-emissions bus fleet by 2040.

TriMet’s transit buses are fueled from TriMet-owned underground storage tanks. TriMet’s Accessible Transportation Program (ATP) paratransit mini-buses and vans are fueled daily by a contracted mobile fueling service.

7. **Description of Procurement Process**

On August 13, 2021, TriMet issued an Invitation To Bid (ITB) for R99 RHD for four areas of need (Lot #1 – Center Garage Bulk Fueling, Lot #2 – Merlo Garage Bulk Fueling, Lot #3 – Powell Garage Bulk Fueling, and Lot #4 – ATP Vehicle Mobile Fueling). Because of bidder inquiries, TriMet issued an Addendum #2 on August 26, 2021, allowing bidders to also bid B5/R95 RHD fuel as an option. On September 3, 2021, TriMet received two bids. The bids for the 4 Lots are shown below:

Bid Results – Bulk and Mobile R99 and/or B5/R95 RHD Fuel**

	CECO, Inc. (Carson)	McCall Oil & Chemical Corp. (McCall)
Lot #1 (Bulk R99 Blend RHD Fuel – Center Garage)	\$33,266,375	\$33,591,375
Lot #2 (Bulk R99 Blend RHD Fuel – Merlo Garage)	\$26,461,400	\$26,711,400
Lot #3 (Bulk R99 Blend RHD Fuel – Powell Garage)	\$33,278,875	\$33,591,375
Lot #4 (Mobile R99 Blend RHD Fuel – ATP Vehicles)	No Bid	No Bid
Total Contract Value	\$93,006,650	93,894,150

*** Note ... Both bidders bid the R99 RHD Fuel type, instead of the B5/R95 Fuel.*

After the solicitation closed with no bids for the ATP fleet, Procurement staff reached out to bidders to inquire why they chose not to bid that portion. There were two reasons common amongst the bidders. First, because the ATP fleet requires wet-hose fueling, it requires that a contractor tanker-truck report to the ATP sites between the hours of 11pm and 3am and fuel each and every vehicle individually. This is labor intensive and not attractive to fuel distributors. Second, there is a local and national shortage of drivers with a Commercial Drivers License (CDL), especially ones with a HAZMAT certification. This shortage in CDL drivers has impacted fuel distributors, which has made the wet-hose fueling portion of our operation less attractive and even risky due to the liquidated damages provision in our Contract.

Because there were no bids for the ATP Vehicles, that fleet will need to continue receiving mobile fueling of the 5% Biodiesel/ 95% ULSD blend. Procurement staff will work with

ATP Leadership and Safety, Security & Environmental staff to identify a way to provide ATP vehicles with R99 RHD fuel in the future.

The proposed Contract for Lots #1-3 will be for a 5-year term, with TriMet retaining the unilateral option to terminate for convenience during the 5-year term. Contract pricing is based on the OPIS Net Wholesale B5 SME ULS No. 2 Biodiesel Contract Rack Average (Rack Rate) and dealer mark-up/discount, with no price adjustment to the dealer mark-up/discount allowed during the term of the Contract. Any increase to the stated delivery charge will be solely at TriMet's discretion, and only considered on an annual basis.

Although the bidders were relatively close, Carson was the winning bidder. The total amount of the Contract is \$93,006,650. Notwithstanding the bid amount, the total expenditures under the Contract will be based on TriMet's actual usage, which will vary annually according to frequency of service, number of buses, and Rack Rate fuel prices.

The total Contract amount is slightly higher (9.9%) than TriMet's Independent Cost Estimate (ICE) of \$84,608,585 for Lots #1-3, over the 5-year Contract term of this procurement. The ICE was based on TriMet's current contract pricing (including escalation) for bulk biodiesel fuel.

8. **Diversity**

Carson's workforce is 25% female and 10.7% minority, and its total employee count is 447. Carson will self-perform all of the work under the Contract.

Prior to posting the solicitation, TriMet's Procurement & Supply Chain Management Department engaged with both certified and non-certified vendors to obtain feedback on how to maximize opportunities for DBE-certified firms to participate. A copy of the draft solicitation was shared with prospective DBEs and they were given the opportunity to provide feedback on the requirements and potential barriers that would prevent them from being able to participate. Procurement staff reviewed the feedback and made changes as appropriate, including splitting the bulk fuel into three separately awarded lots (one for each bus garage), and allowing for alternate pathways to satisfy experience requirements. Procurement staff also met with non-certified prospective bidders and discussed the potential for them to subcontract or partner with certified firms for value-added functions such as transportation and delivery of the fuel.

Another change and accommodation was made after the solicitation was posted allowing prospective bidders the option of bidding a B5/R95 blend instead of R99, following confirmation from TriMet's bus engine supplier (Cummins) that utilizing a bio/renewable diesel blend would not void any engine warranties and would not require TriMet's bus maintenance department to abandon the extended engine oil change interval previously approved by Cummins. This step expanded the eligible fuel supply chain, thus opening up additional opportunities for DBE-certified firms to participate.

As Procurement, ATP and Safety, Security & Environmental staff pursue alternative fuel options for the ATP fleet they will prioritize DBE participation and try to find creative solutions to achieve DBE participation in TriMet's fueling business.

9. **Financial/Budget Impact**

The Contract amount is accounted for in the Bus Maintenance operating budget for FY22 through FY27.

10. **Impact if Not Approved**

Should the Board choose to not approve the contract, it could direct the continued use of B5 ULSD for TriMet's bus fleet. However, doing so would not achieve TriMet's goal of transitioning its bus fleet to a zero-carbon footprint. Re-solicitation of the Contract is not likely to obtain better results in quality of bids, DBE participation, or price. In addition, Carson is highly qualified and their prices are fair and reasonable. Contract award to this vendor is strongly recommended.

RESOLUTION NO. 21-10-47

**RESOLUTION NO. 21-10-47 OF THE TRI-COUNTY METROPOLITAN
TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING A
CONTRACT WITH CECO, INC. (CARSON) FOR BULK R99 RENEWABLE
HYDROCARBON DIESEL (RHD) FUEL (3 LOTS)**

WHEREAS, TriMet has authority under ORS 267.200 to enter into a contract with CECO, Inc. (Carson) for the procurement of bulk R99 Renewable Hydrocarbon Diesel (RHD) fuel (Contract); and

WHEREAS, by Resolution dated October 25, 2017, the TriMet Board of Directors (Board) adopted a Statement of Policies requiring the Board to authorize goods and services contracts obligating TriMet to pay in excess of \$1,000,000; and

WHEREAS, the total amount of the Contract exceeds \$1,000,000;

NOW, THEREFORE, BE IT RESOLVED:

1. That the Contract shall conform with applicable law.
2. That the General Manager or his designee is authorized to execute the Contract in the amount of \$93,006,650 through the October 31, 2027, Contract term.

Dated: October 27, 2021

Presiding Officer

Attest:

Recording Secretary

Approved as to Legal Sufficiency:

Gregory E. Skillman

Legal Department