

Date: July 25, 2012

To: Board of Directors

From: Neil McFarlane

Subject: **RESOLUTION 12-07-65 OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING A CONTRACT WITH LANDSCAPE FORMS, INC. FOR FINAL DESIGN AND FABRICATION OF STATION AMENITIES FOR THE PORTLAND-MILWAUKIE LIGHT RAIL TRANSIT PROJECT**

1. Issue or Purpose of the Item.

The purpose of this item is to request that the TriMet Board of Directors (“Board”) adopt a resolution authorizing a contract with Landscape Forms, Inc. to finalize the design and to fabricate station amenities for the Portland-Milwaukie Light Rail Transit Project (“Project”).

2. Reason for Board Action.

Board of Directors authorization is required for all goods and services contracts obligating TriMet to pay an amount exceeding \$500,000.

3. Background.

This contract provides for final fabrication design and production of station amenities for the Project. Station amenities include shelters, signage, graphics, seating, emergency telephones and other items on the station platforms. Station amenities are designed to minimize ongoing operations and maintenance costs, provide shelter to TriMet’s customers and clearly display essential transit system customer information. This next generation of station amenities will build on TriMet’s existing amenities program and be integrated with the existing light rail system. The elements will coordinate with the agency’s customer information graphics and messaging nomenclature, and will reinforce and strengthen TriMet’s “brand” recognition. The design for this procurement integrates significant lessons learned from previous projects, input from the communities along the alignment, TriMet’s Safety & Security committee, and TriMet’s Committee for Accessible Transportation.

TriMet’s design consultants created a 75 percent design for the Project’s station amenities in preparation for this procurement. The contract authorized by this Resolution will allow Landscape Forms to take the design to 100 percent completion, and to fabricate the amenities. Attached as Exhibit A to this memorandum is a station rendering, showing the items that are within the scope of work for this contract.

On April 16, 2012 TriMet issued a Request for Proposals (“RFP”) for the work. The RFP established the following design criteria for the transit signage system: (1) high quality craftsmanship, (2) durable materials to minimize maintenance costs while ensuring a high level of aesthetic and functional quality, (3) provision to accommodate a range of customer and operational information systems, (4) enhancement of customer and operational boarding and de-boarding movements, and (5) enhancement of the overall transit experience for all TriMet riders.

In response to the RFP, TriMet received five proposals. TriMet organized a Source Evaluation Committee (“SEC”), which consisted of TriMet staff from Capital Projects and Facilities Management. A representative from the City of Portland and a representative from Clackamas County were also included. The SEC evaluated the technical proposals based on the criteria set forth in the RFP. The technical scoring criteria also included, among others, compliance with federal Buy America and the proposer’s utilization of Disadvantaged Business Enterprises (“DBEs”).

The SEC determined that three firms were technically qualified, and then opened the pricing proposals from these firms. The SEC then determined that of these three firms, two firms were in the competitive range. On June 1, the SEC held interviews with these two firms. TriMet then requested the Best and Final Offers from these two firms. The SEC evaluation results are shown below:

Proposer	Base Price	Technical Score	Price Score	Total Score
Central Denver Iron Works	\$3,051,512	49	40	89
Landscape Forms	\$3,085,321	54	39.6	93.6

Landscape Forms’ cost proposal was determined to be fair and reasonable given the competitive nature of the proposals received. Their cost proposal was significantly less than TriMet’s independent cost estimate for this work of approximately \$3.9 million. In addition, Landscape Forms was determined to be a responsive and responsible proposer.

On June 18, TriMet received a protest from Central Denver Iron Works alleging that Landscape Forms was not qualified to transact business in Oregon and that Landscape Forms misrepresented its status as a business registered in Oregon. TriMet initially denied the protest on June 26. Central Denver Iron Works did not request reconsideration of TriMet’s decision within the required timeframe and the denial was deemed final on July 5. The basis of the protest was that Landscape Forms’ corporate registration with the Oregon Secretary of State had lapsed at the time that it submitted its proposal to TriMet. In its protest, Central Denver Iron Works incorrectly claimed that TriMet’s RFP process included a pre-qualification component and that Landscape Forms’ expired Oregon corporation registration disqualified its proposal from consideration. However, because the RFP process did not contain a pre-qualification component, corporate registration was not a factor that was considered in evaluating the proposals, but instead was properly reviewed after the evaluation process as a responsibility determination that was curable prior to contract award. Landscape Forms has now renewed its registration.

Landscape Forms' proposal does not include any specific DBE utilization for fabrication of elements or subcomponents because TriMet's DBE Utilization Program is race-neutral; requirements or assigned scoring related to the percentage of DBE utilization is not permitted under precedent from the United States Court of Appeals for the Ninth Circuit. In addition, since these are specialty materials, DBE opportunities are not as readily available for this contract as they are for TriMet’s

civil construction contracts. However, Landscape Forms' proposal does include several local non-DBE sub-fabricators, representing approximately 25 percent of the contract.

TriMet is committed to DBE participation and will work with Landscape Forms to seek improvement in DBE participation as the contract is performed. Further, TriMet is working with the follow-on CMGC contractors to determine if installation of these materials, being performed under the CMGC contracts, can be assigned to DBE firms.

This contract will be a requirements based contract, which will allow TriMet to order as many or as few items as it needs, with payment made for only those items actually purchased. While the initial contract amount will be \$3,085,381, the total contract amount will be adjusted as necessary to meet TriMet's actual requirements and budget considerations, subject to the unit pricing submitted with Landscape Form's proposal.

Ordinary and customary changes will likely be incurred during execution of the work that will require additional expenditures under the contract. Accordingly, the attached resolution allows TriMet to amend the contract if the cumulative increase does not exceed 10 percent of the original authorized amount (\$308,532). Funding for this contract will come from the Project's Full Funding Grant Agreement.

4. Options, if any.

The Board could elect not to approve the contract. However, staff has determined that Landscape Forms is the most responsive, responsible proposer for this procurement, and that its proposal price is fair and reasonable. Therefore, contract award is the only option recommended.

5. Recommendation.

The General Manager recommends approval of the Resolution.

RESOLUTION 12-07-65

RESOLUTION OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING A CONTRACT WITH LANDSCAPE FORMS, INC. FOR FINAL DESIGN AND FABRICATION OF STATION AMENITIES FOR THE PORTLAND-MILWAUKIE LIGHT RAIL TRANSIT PROJECT

WHEREAS, TriMet has authority under ORS 267.200 to execute a contract with Landscape Forms, Inc. for final design and fabrication of station amenities (“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 contracts obligating TriMet to pay 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.
3. That the General Manager or his designee is authorized to execute Contract modifications in a cumulative amount not to exceed \$308,532.

Dated: July 25, 2012

Presiding Officer

Attest:

Recording Secretary

Approved as to Legal Sufficiency:

Legal Department