

**Date:** February 22, 2023

**To:** Board of Directors

**From:** Sam Desue, Jr.



**Subject: RESOLUTION NO. 23-02-07 OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING A CONTRACT WITH NELSON\NYGAARD CONSULTING ASSOCIATES, INC. (NELSON\NYGAARD) FOR BETTER BUS PROGRAM DESIGN SERVICES**

---

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 (Contract) with Nelson\Nygaard Consulting Associates, Inc. (Nelson\Nygaard) for Better Bus Program Design Services (Services).

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 contracts obligating TriMet to pay in excess of \$1,000,000.

5. **Type of Action**

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

6. **Background**

The original Regional Enhanced Transit Corridor (ETC) Concept Program was initiated in the Fall of 2017 in partnership with Metro. Due to the success of the program, Metro allocated \$5,000,000 to continue the program with a new name, the Better Bus (BB) Program. The BB Program is intended to address the following goals along our frequent service network:

- Increase transit ridership to meet regional and local goals by improving transit reliability, speed, and capacity through bottlenecks in congested corridors using technology and other tools (e.g., transit signal priority at busy intersections, bus-only lanes).
- In partnership with local jurisdictions and facility owners, identify, design and build a set of BB projects in bottlenecks or congested corridors, where improvements are most needed and can be deployed quickly for immediate results.
- Develop numerous potential BB projects that will be ready for construction as soon as funding is identified.

Utilizing the \$5,000,000 provided by Metro, this Resolution will authorize TriMet to engage Nelson\Nygaard to perform the Services that further the goals of the BB Program. Nelson\Nygaard will work with TriMet, Metro, and other local and state agencies to help identify and select qualified BB projects, develop BB project design and produce design documentation, identify necessary permits and develop cost estimates for each BB project. TriMet will administer the Contract, and will invoice Metro for the Services as they are performed.

#### 7. **Description of Procurement Process**

TriMet utilized a competitive Request for Qualifications (RFQ) process to select a contractor to provide the Services. Prior to issuing the RFQ, outreach was performed through a wide distribution of information via e-mail and through a series of informational meetings describing the effort and results of the previous ETC program and a description of the anticipated changes and updates expected for the new BB program. A total of 684 vendors were notified of the RFQ via TriMet's eProcurement System (TriP\$). The RFQ was issued on November 23, 2022, with a proposal due date of December 16, 2022.

Despite the extensive outreach conducted prior to issuance of the RFQ, the only proposal TriMet received was one from Nelson\Nygaard. Competition was limited due to the large and complex scope of the Services, which requires a team of multi-disciplinary firms. Although TriMet staff conducted informational meetings with several firms that were potentially interested, staff were informed that the scope of the RFQ precluded these firms from acting as prime consultants, due to the broad range of skills required. Many of these firms have since become subcontractors for the larger Nelson\Nygaard team.

TriMet is required by ORS 279C.110 to utilize a Qualifications-Based Selection when selecting architects and engineers for design contracts. In a Qualifications-Based Selection procurement, the Agency must select the most qualified firm, then negotiate a fair and reasonable price for the required professional services. Price quotations are not permitted as a consideration in the selection process.

TriMet appointed an evaluation committee (EC), consisting of staff from TriMet's Engineering, Construction and Planning Division, its Inclusion, Diversity, Equity and Accessibility Division, and Metro, to review and evaluate the Nelson\Nygaard proposal. EC members were selected based on their expertise, experience and knowledge related to the BB Program. The EC scored the proposal in accordance with the procedures and criteria

established in the RFQ. After completing the initial review process, the EC determined that Nelson/Nygaard is well-qualified and did not require an interview.

The Nelson\Nygaard scores are shown below:

<b>Criteria (points)</b>	<b>Nelson\Nygaard</b>
<b>Corporate Experience (15)</b>	13.17
<b>Personnel Experience (35)</b>	33.67
<b>Work Plan, Quality Control, and Diversity (30)</b>	27.50
<b>Availability in Portland and Track Record (10)</b>	9.33
<b>Cost Estimating and Cost Controls (10)</b>	9.33
<b>Total</b>	<b>93</b>

In accordance with a Qualifications-Based Selection, the direct labor costs and overall contract value were negotiated after selection of the contractor. The attached Resolution authorizes the award of a five-year contract to Nelson\Nygaard in an amount not to exceed \$4,200,000 for the Services. TriMet staff has determined that the negotiated rates are fair and reasonable in relation to the local market for this type of work and in comparison with rates of others for similar services. The negotiated contract amount is also within the budget established for this work.

8. **Diversity**

Nelson\Nygaard's total employee count is 152, and its workforce is 31.5% minority and 49.3% female/non-binary. Nelson\Nygaard anticipates using Oregon certified firms for 22% of the work in the areas of community engagement, utility and stormwater issues, surveying, final design, landscape architecture, permitting, and hazardous materials.

9. **Financial/Budget Impact**

This Resolution is revenue-neutral because Metro will be paying the invoices for the Services performed by Nelson\Nygaard, and will be paying TriMet for the administration of the Contract.

10. **Impact if Not Approved**

If the Board does not approve this Resolution, TriMet could attempt to re-procure the Services. However, TriMet used the RFQ process to select a contractor who could engage a diverse team of well qualified firms to perform the Services, and negotiated a reasonable contract price. Advertising the Contract a second time will not likely lead to additional or more favorable proposals.

**RESOLUTION NO. 23-02-07**

**RESOLUTION NO. 23-02-07 OF THE TRI-COUNTY METROPOLITAN  
TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING A  
CONTRACT WITH NELSON\NYGAARD CONSULTING ASSOCIATES, INC.  
(NELSON\NYGAARD) FOR BETTER BUS PROGRAM DESIGN SERVICES**

**WHEREAS**, TriMet has authority under ORS 267.200 to enter into a contract (Contract) with Nelson\Nygaard Consulting Associates, Inc. (Nelson\Nygaard) for Better Bus Program Design Services; and

**WHEREAS**, by Resolution dated May 25, 2022, the TriMet Board of Directors (Board) adopted a Statement of Policies requiring the Board to authorize all 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 an amount not to exceed \$4,200,000, over the five-year Contract term.

Dated: February 22, 2023

---

Presiding Officer

Attest:

---

Recording Secretary

Approved as to Legal Sufficiency:



---

Legal Department