

Date: April 11, 2012

To: Board of Directors

From: Neil McFarlane

Subject: **RESOLUTION 12-04-30 OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING A CONTRACT WITH SIEMENS INDUSTRY, INC. FOR LOW FLOOR LIGHT RAIL VEHICLES 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) approve a resolution authorizing the General Manager to execute a contract with Siemens Industry, Inc. (Siemens) for the procurement of low floor light rail vehicles and related materials and services 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 in excess of \$500,000.

3. Background.

This contract is for the purchase of 18 low floor light rail vehicles (LRVs), spare parts, manuals and training for the Portland-Milwaukie Light Rail Transit project, which will create a new light rail extension from 5th and 6th Avenues in downtown Portland to Milwaukie and on to North Clackamas County, Oregon. The Project received pre-award authority for procurement of vehicles with the Federal Transit Administration's (FTA) issuance of the Record of Decision in November 2010.

In addition to the 18 LRVs, the contract allows options for up to 66 additional light rail vehicles, including up to 22 vehicles for the Columbia River Crossing project; up to 22 vehicles for possible service expansions or replacement of older vehicles, additional spare parts and warranties; and up to 22 vehicles for assignable options to a transit district in Charlotte, NC.

TriMet issued a Request for Proposals (RFP) on August 29, 2011. The technical scoring criteria set forth in the RFP included: (1) Proposed Product, including vehicle and sub-systems; (2) Management Approach and Schedule; (3) Testing and Systems Assurance; and (4) Qualification, Experience and References. The RFP also required compliance with federal Buy America Rolling Stock Provisions and DBE requirements for transit vehicle manufacturers established by the FTA. DBE programs for

transit vehicle manufacturers are administered directly by the FTA. Manufacturers must have an approved DBE program on file with the Office of Civil Rights, and proposers were required to certify compliance with FTA requirements.

In response to its RFP, TriMet received three proposals on November 29, 2011. Following is a brief description of the three proposers:

CAF USA is a subsidiary of CAF S.A., an established railcar builder based in northern Spain, with US assembly facilities in Elmira, NY. CAF USA has supplied more than 100 high-floor LRVs in North America, to Sacramento and Pittsburgh, and has recently won its first contract for 39 low floor LRVs in Houston.

Stadler is an established railcar builder based in Switzerland. For this proposal, they partnered with United Streetcar LLC of Clackamas, which would provide manufacturing of car shells and final assembly of the vehicles. Stadler has not supplied any light rail vehicles in North America, but they have provided some low floor LRVs to various cities in Europe. They also have supplied light commuter rail vehicles in the US to New Jersey Transit, and to Austin and Denton County in Texas.

Siemens Industries, Inc., a subsidiary of Siemens AG of Germany, is an established railcar builder based in Sacramento, CA. Siemens has supplied more than 900 high floor LRVs and more than 300 low floor LRVs in North America, including TriMet's Type 2, Type 3 and Type 4 LRVs.

TriMet appointed a Source Evaluation Committee (SEC) comprised of staff from TriMet's Capital Projects, Rail Operations and Purchasing divisions. SEC members were selected based on their expertise, experience and knowledge, and were instructed to follow strict procedures and guidelines in reviewing and scoring the proposals. The SEC evaluated the technical proposals based on the criteria set forth in the RFP, as follows:

| | |
|--------------------------------------------------------------------------------------------------------|-----|
| Proposed Product, including vehicle and sub-systems, performance, service proven design, compatibility | 60% |
| Management Approach and Schedule | 20% |
| Testing and Systems Assurance | 10% |
| Qualification, Experience and References | 10% |

After evaluating the technical proposals, the SEC opened each proposer's price and completed the scoring of the proposals.

Based on the total of the technical and pricing scores, the SEC determined that all three proposers were within the competitive range. The SEC then held discussions with each firm and issued a Request for Best and Final Offers (RBAFO) on January 9, 2012.

BAFOS were received on February 17, 2012. The SEC evaluated the BAFOs in accordance with the procedures and evaluation criteria established in the RFP and the RBAFO, including both technical and price components.

Using the formula established in the RFP, price proposals were scored to reach a Price Score based on the proposed base contract price plus a weighted price for options. The lowest price was awarded 100 points, with higher prices awarded a proportionally reduced score. A Total Score was calculated by combining the Technical Score and the Price Score, each at 50 percent. Final Score rankings were as follows:

| <u>Proposer</u> | <u>Base Price</u> | <u>Technical Score</u> | <u>Price Score</u> | <u>Total Score</u> |
|------------------------|--------------------------|-------------------------------|---------------------------|---------------------------|
| CAF | \$69.7M | 75.9 | 100 | 88.0 |
| Stadler | \$76.2M | 83.2 | 94 | 88.6 |
| Siemens | \$73.8M | 87.1 | 97.2 | 92.2 |

The proposal from Siemens was selected because it received the highest overall score. Pricing from all three proposers was highly competitive. While TriMet recognizes that the Project provides the opportunity to bring local jobs to the Portland area, federal regulations prohibit local preference as an evaluation criteria in the RFP. The Siemens contract price is \$8 million below the Engineer's estimate and well within TriMet's budget for this contract.

Following FTA regulations, a Buy America pre-award audit must be completed before the contract can be awarded. The audit began on March 12, and a final report confirming that the selected proposal meets Buy America requirements has been completed. The audit concluded that the Siemens proposal contains 77 percent American-made components by cost, well in excess of the 60 percent minimum required by FTA regulations. For comparison, the Stadler proposal offered over 70 percent US content, while CAF offered to exceed the required 60 percent minimum.

After TriMet issued a Notice of Intent to Award Contract, the two unsuccessful proposers filed protests challenging the award. At the direction of the General Manager, a designee separately met with the proposers to review their protests. After consideration of the arguments, both protests were denied on March 21, 2012. Neither protesting party filed for reconsideration within the time period established by TriMet's protest procedures.

This Resolution authorizes TriMet to execute a contract with Siemens for the base price amount of \$73.8 million, and to execute contract modifications for contingency costs in an amount not to exceed \$6.4 million. The \$6.4 million contingency authorization is necessary due to the complexity of the design and manufacture required for the LRVs, and would also be available to exercise options for needed additional spare parts and warranties.

In the event TriMet elected to exercise any options under the contract for additional light rail vehicles, including vehicles for the Columbia River Crossing project, possible service expansions, or replacement of older vehicles, it would return to the Board for authorization to do so. In the event that

Charlotte, NC elects to use its options, it would enter into its own contract with Siemens at the prices proposed by Siemens. TriMet would not be a party to that transaction.

Funding for this contract will come from the Project Full Funding Grant Agreement (FFGA), which is expected this spring. Since light rail vehicles are long lead items and schedule is critical, staff proposes to issue a limited Notice to Proceed, allowing Siemens to proceed with design work only, and limiting TriMet's exposure to \$5 million. A full Notice to Proceed would be issued following receipt of the FFGA.

4. Options.

TriMet's options are limited to re-procuring the work. Considering the highly competitive nature of this procurement, a new procurement is not likely to result in a more favorable result. A new procurement would likely delay the opening of the Project, since not enough vehicles would be available to support the expanded service.

5. Recommendation.

The General Manager recommends that the Board approve the Resolution.

RESOLUTION 12-04-30

RESOLUTION OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING A CONTRACT WITH SIEMENS INDUSTRY, INC. FOR LOW FLOOR LIGHT RAIL VEHICLES FOR THE PORTLAND-MILWAUKIE LIGHT RAIL TRANSIT PROJECT

WHEREAS, TriMet has authority under ORS 267.200 to enter into a contract and contract modifications for contingency costs with Siemens Industries, Inc. (“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 an amount 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 contract modifications for contingency costs shall not exceed a total amount of \$6.4 million.

Dated: April 11, 2012

Presiding Officer

Attest:

Recording Secretary

Approved as to Legal Sufficiency:

Legal Department