

Date: December 11, 2019

To: Board of Directors

From: Doug Kelsey

Subject: **RESOLUTION NO. 19-12-92 OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON BOARD OF DIRECTORS, ACTING IN ITS CAPACITY AS THE TRIMET CONTRACT REVIEW BOARD, AUTHORIZING A SPECIAL PROCUREMENT EXEMPTION FOR MULTICULTURAL OUTREACH SERVICES**

1. Purpose of Item

This Resolution requests that the TriMet Board of Directors (Board), acting in its capacity as the TriMet Contract Review Board (TCRB), authorize a special procurement exemption for multicultural outreach services (Services). Approval of this Resolution will allow TriMet to conduct an alternative procurement process for the Services.

2. Type of Agenda Item

- Initial Contract
- Contract Modification
- Other: Special Procurement Exemption

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): TCRB Special Procurement

4. Reason for Board Action

This special procurement exemption must be approved by the TriMet Contract Review Board (TCRB) in accordance with state law and the TCRB Rules.

5. Type of Action

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

6. Background

Several years ago, TriMet Public Affairs instituted the Multicultural Outreach Contract (Contract) to enhance our outreach and engagement efforts with underrepresented communities on a wide-range of projects and initiatives. These

efforts are also intended to strengthen capacity within underrepresented communities and increase their opportunities to build relationships with TriMet.

In May 2017, TriMet staff requested a contract for a one (1) year base term, with seven (7) additional one (1) year options to renew. The Board authorized that contract via Resolution 17-05-38. To date, TriMet has used the contract to preform outreach for 13 projects and programs. Because of that Multicultural Outreach Contract, outreach and engagement efforts with underrepresented communities, capacity within underrepresented communities, and stronger relationships between community-based organizations and TriMet have continued to grow.

The seven competitive range firms that were selected in the initial procurement process brought a wide variety of skills and outreach experience to the table and represent community-based organizations (Centro, FACT, IRCO), public involvement firms (JLA and Multicultural), and marketing firms (C+C and Lara). This mixture has allowed TriMet to reach a large cross-section of underrepresented and underserved communities in the tri-county region and better engage them in outreach and involvement opportunities ranging from HB 2017 budget workshops, to rolling out the Hop Fastpass fare payment system, to General Manager listening sessions, and to annual service planning.

In order to grow and enhance the Multicultural Outreach Contract, Public Affairs needs to procure and contract with additional firms that represent cultural and geographical communities in our service area. Given the success of the initial procurement, TriMet staff believe that it is in the best interest of the Agency to continue this process for establishing new contracts under the Multicultural Outreach Contract.

ORS 279B.085 and TCRB Rule IV(A) provide that the Board, acting in its capacity as the TCRB, may authorize a special procurement exemption if it finds that a written request submitted for authorization demonstrates that the use of a special procurement meets the following requirements:

(a) It is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts; and

(b) (1) It is reasonably expected to result in substantial cost savings to the agency or to the public; or

(2) It otherwise substantially promotes the public interest in a manner that could not practicably be realized by complying with requirements that are applicable under ORS 279B.055 (competitive sealed bidding), 279.060 (competitive sealed proposals), 279B.065 (small procurements), 279B.070 (intermediate procurements), or under any rules adopted thereunder.

7. Procurement Process

Upon approval of this exemption, TriMet will issue a Request for Multicultural Outreach Contract Applications (Request for Applications). The Request for Applications will function the same way as Invitations to Bid and Requests for Proposals, and would be posted on TriMet's vendor registration system, TriP\$. It would solicit applications from qualified

and interested firms and individuals that have the experience and qualifications to be able to provide outreach services focused on engaging underrepresented communities in a wide-range of projects and initiatives. Once the Request for Applications has been issued, TriMet will accept applications from qualified and interested firms and individuals throughout a one-year period.

As applications are received, TriMet will convene an evaluation committee (EC) comprised of staff from Public Affairs and other internal stakeholders to review applications on a rolling basis to determine if each meets the minimum requirements and demonstrates the capability to enhance TriMet's outreach engagement efforts with underrepresented communities. After review, the EC may approve or deny the application, or seek additional information.

Contracts subsequently executed would be requirements-based for up to a five year term, and would include agreed-upon rates for the provision of multicultural outreach and engagement services, based upon TriMet needs and available funds. Rates will be negotiated for fairness and reasonableness, and each contract will have a price adjustment clause, allowing an annual rate increase not to exceed the difference in the Consumer Price Index for the Portland-Salem metropolitan area from the previous year.

The goal of this alternative contracting process is to accumulate a pool of professional resources to support and sustain the Multicultural Outreach Contract into the future, and allow it to evolve over time. Initially, TriMet intends to solicit applications from community outreach and engagement firms in specific categories, but new categories may be added during subsequent years as requests and demand for connection to additional communities occurs. Leaving the Request for Applications open on a rolling one-year basis will provide more opportunity for interested and qualified firms and individuals to apply, thus supporting the goal of accumulating a pool of professional resources to support and sustain the Contract. Reissuing the solicitation on a regular basis also allows for a reevaluation of TriMet's needs and for new firms to provide services.

Pursuant to ORS 279B.085 and TCRB Rule IV(A), the proposed process will not encourage favoritism in awarding of public contracts or substantially diminish competition. The goal of this alternative process is just the opposite. Public Affairs wants to identify and contract with as many relevant and qualified community outreach and engagement firms and individuals as possible. The proposed contracting process is also expected to result in substantial cost savings to the agency because Public Affairs and Contracts staff will not need to procure and contract for the Services on a separate and recurring basis.

TriMet also believes that the proposed contracting process substantially promotes the public interest in a manner that could not practicably be realized pursuant to ORS 279B.055 (competitive sealed bidding), 279.060 (competitive sealed proposals), 279B.065 (small procurements) or 279B.070 (intermediate procurements), or under any rules adopted thereunder. The process promotes the public interest because the period of time during which the Request for Applications would be open allows increased opportunities for interested and qualified firms and individuals to submit applications in the solicited categories.

8. Diversity

Use of the proposed alternative Request for Applications process will allow TriMet to continue to identify and recruit disadvantaged, minority-owned, women-owned and

emerging individuals and firms (D/M/W/ESB) and allow for the continued diversification of the pool of contractors who can serve TriMet and the community.

9. Financial/Budget Impact

This Resolution does not require the Board to authorize a specific amount for the Multicultural Outreach Contract. Instead, each contract entered into under this contracting process will be limited to a not-to-exceed amount of \$62,500 for the base term of one (1) year, renewable in annual increments for up to five years. Money for these contracts will come from other projects, and it is unlikely that the total amount expended on them will exceed \$500,000.

10. Impact if Not Approved

If this exemption is not approved, TriMet anticipates having to conduct multiple and regular Requests for Proposals processes to obtain contracts with firms and individuals needed to support and sustain the Multicultural Outreach Contract. The small dollar amounts and limited scope of work for these outreach and engagement Services does not warrant the same full, sealed-solicitation process utilized for other, larger service contracts. It is strongly recommended that this Special Procurement Exemption be approved to save time, and enhance the efficiency and effectiveness of the Public Affairs and Procurement and Contracts staff.

RESOLUTION NO. 19-12-92

**RESOLUTION NO. 19-12-92 OF THE TRI-COUNTY METROPOLITAN
TRANSPORTATION DISTRICT OF OREGON (TRIMET) BOARD OF
DIRECTORS, ACTING IN ITS CAPACITY AS THE TRIMET CONTRACT
REVIEW BOARD, AUTHORIZING A SPECIAL PROCUREMENT
EXEMPTION FOR MULTICULTURAL OUTREACH SERVICES**

WHEREAS, the TriMet Contract Review Board (TCRB) has authority under ORS 279B.085 and TCRB Rule IV to authorize a special procurement exemption based upon written request submitted by the Agency, and upon making the findings set forth in ORS 279B.085(4); and

WHEREAS, the Agency has submitted a written request to the TCRB for approval of a contract-specific special procurement, which is set forth in the attached and incorporated Exhibit A; and

NOW, THEREFORE, BE IT RESOLVED:

1. That the TCRB hereby approves the written request for a contract-specific special procurement set forth in the attached and incorporated Exhibit A.
2. That the TCRB hereby finds that the written request set forth in Exhibit A demonstrates that the use of a special procurement as described in the request:
 - (a) Is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts; and
 - (b) (1) Is reasonably expected to result in substantial cost savings to the agency or to the public; or

(2) Otherwise substantially promotes the public interest in a manner that could not practicably be realized by complying with requirements that are applicable under ORS 279B.055 (competitive sealed bidding), 279.060 (competitive sealed proposals), 279B.065 (small procurements) or 279B.070 (intermediate procurements) or under any rules adopted thereunder.

Dated: December 11, 2019

Attest:

Presiding Officer

Recording Secretary

Approved as to Legal Sufficiency:



Legal Department

RESOLUTION NO. 19-12-92
EXHIBIT A

WRITTEN REQUEST FOR CONTRACT-SPECIFIC SPECIAL PROCUREMENT

Background.

Several years ago, TriMet Public Affairs instituted the Multicultural Outreach Contract (Contract) to enhance our outreach and engagement efforts with underrepresented communities on a wide-range of projects and initiatives. These efforts are also intended to strengthen capacity within underrepresented communities and increase opportunities for these communities to build relationships with TriMet.

The seven competitive-range firms that were selected in the initial procurement process brought a wide variety of skills and outreach experience to the table and represent community-based organizations (Centro, FACT, IRCO), public involvement firms (JLA and Multicultural), and marketing firms (C+C and Lara). This mixture has allowed TriMet to reach a large cross-section of underrepresented and underserved communities in the tri-county region and better engage them in outreach and involvement opportunities ranging from HB 2017 budget workshops, rolling out the Hop Fastpass fare payment system, GM Listening sessions, to annual service planning.

In order to grow and enhance this contract, Public Affairs needs to procure and contract with additional firms that represent cultural and geographical communities in our service area. In May 2017, TriMet staff requested a Multicultural Outreach Contract for a one (1) year base term, with seven (7) additional one (1) year options to renew. The Board authorized that contract via Resolution 17-05-38.

To date, TriMet has used the Contract to preform outreach for 13 projects and programs. Because of that Contract, outreach and engagement efforts with underrepresented communities, capacity within underrepresented communities, and stronger relationships between community-based organizations and TriMet have continued to grow.

Request for Special Procurement Exemption.

Given the success of the initial procurement, TriMet staff believe that it is in the best interest of the Agency to continue this process for establishing contracts for the Multicultural Outreach Contract, and hereby makes this written request for the contract-specific procurement as described herein.

ORS 279B.085 and TCRB Rule IV(A) provide that the Board, acting in its capacity as the TCRB, may authorize a special procurement exemption if it finds that a written request submitted for authorization demonstrates that the use of a special procurement meets the following requirements:

(a) It is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts; and

(b) (1) It is reasonably expected to result in substantial cost savings to the agency or to the public; or

(2) It otherwise substantially promotes the public interest in a manner that could not practicably be realized by complying with requirements that are applicable under ORS 279B.055 (competitive sealed bidding), 279.060 (competitive sealed proposals), 279B.065 (small procurements) or 279B.070 (intermediate procurements) or under any rules adopted thereunder.

Upon approval of this exemption, TriMet will issue a Request for Multicultural Outreach Contract Applications (Request for Applications). The Request for Applications will function the same way as Invitations to Bid and Requests for Proposals, and would be posted on TriMet's vendor registration system, TriP\$. It would solicit applications from qualified and interested firms and individuals that have the experience and qualifications to be able to provide outreach services focused on engaging underrepresented communities in a wide-range of projects and initiatives. Once the Request for Applications is issued, TriMet will accept applications from qualified and interested firms and individuals throughout a one-year period.

As applications are received, TriMet will convene an evaluation committee (EC) comprised of staff from Public Affairs and other internal stakeholders to review applications on a rolling basis to determine if each meets the minimum requirements and demonstrates the capability to enhance TriMet's outreach engagement efforts with underrepresented communities. After review, the EC may approve the application or seek additional information.

Contracts subsequently executed would be requirements-based for a five-year term, and would include agreed-upon rates for the provision of multicultural outreach and engagement services, based upon TriMet needs and available funds. Rates will be negotiated for fairness and reasonableness, and each contract will have a price adjustment clause, allowing an annual rate increase not to exceed the difference in the Consumer Price Index for the Portland-Salem metropolitan area from the previous year.

The goal of this alternative contracting process is to accumulate a pool of professional resources to support and sustain the Contract into the future, and allow it to evolve over time. Initially, TriMet intends to solicit applications from community outreach and engagement firms in specific categories, but new categories may be added during subsequent years as requests and demand for connection to additional communities occurs. Leaving the Request for Applications open on a rolling basis will provide more opportunity for interested and qualified firms and individuals to apply, thus supporting the goal of accumulating a pool of professional resources to support and sustain the Multicultural Outreach Contract. Reissuing the solicitation on a regular basis also allows for a reevaluation of TriMet's needs and for new firms to provide services.

Pursuant to ORS 279B.085 and TCRB Rule IV(A), the proposed process will not encourage favoritism in awarding of public contracts or substantially diminish competition. The goal of this alternative process is just the opposite. Public Affairs wants to identify and contract with as many relevant and qualified community outreach and engagement firms and individuals as possible. The proposed contracting process is also expected to result in substantial cost savings to the agency because Public Affairs and Contracts staff will not need to procure and contract for the Services on a separate and recurring basis.

TriMet believes that the proposed process substantially promotes the public interest in a manner that could not practicably be realized pursuant to ORS 279B.055 (competitive sealed bidding), 279.060 (competitive sealed proposals), 279B.065 (small procurements) or

279B.070 (intermediate procurements), or under any rules adopted thereunder. The public interest will be promoted because the period of time during which the Request for Applications would remain open will allow interested and qualified firms and individuals more opportunities to submit applications in the categories being solicited.

Moreover, use of the proposed alternative Request for Applications process will allow TriMet to continue to identify and recruit disadvantaged, minority-owned, women-owned and emerging individuals and firms (D/M/W/ESB) and allow for the continued diversification of the pool of contractors who can serve TriMet and the community.

TriMet staff requests that the TriMet Board, acting in its capacity as the TriMet Contract Review Board (TCRB), approve this request for a procurement exemption.

