

**Date:** August 9, 2017**To:** Board of Directors**From:** Neil McFarlane *Neil McFarlane***Subject:** RESOLUTION 17-08-64 OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING A CONTRACT WITH NEW FLYER OF AMERICA, INC. FOR PURCHASE OF XCELSIOR 40' ZERO EMISSION ELECTRIC BUSES AND CHARGING INFRASTRUCTURE FOR FIXED ROUTE SERVICE**1. Purpose of Item**

The purpose of this item is to request that the TriMet Board of Directors (Board) authorize the General Manager to execute a contract with New Flyer of America, Inc. (New Flyer) for the acquisition of five Xcelsior 40' zero emission electric buses and charging infrastructure for fixed route service, resulting from a Federal Transit Administration (FTA) grant award.

**2. Type of Agenda Item**

- Initial Contract  
 Contract Modification  
 Other \_\_\_\_\_

**3. Reason for Board Action**

Board authorization is required for all goods or services contracts obligating TriMet to pay in excess of \$500,000.

**4. Type of Action**

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

**5. Background**

In March 2016, the FTA published a Notice of Funding Opportunity (NOFO) for the Low or No Emission Grant Program. Funds provided by this program provide financial assistance to states and eligible public agencies for the purchase or lease of low or no emission vehicles that use advanced technologies, or for related equipment or facilities to be used for transit revenue operations.

TriMet submitted a grant application for \$7,265,000, and was awarded a grant in the amount of \$3,405,750, with the remaining \$3,859,250 budgeted by TriMet as the local match. In the

grant application, TriMet proposed partnering with New Flyer for the purchase of five electric buses and supporting charging infrastructure hardware (one 450 kW high power charger, three 100 kW overnight dual port depot chargers, and one 50 kW portable battery charger). This resolution would authorize a contract with New Flyer in an amount not-to-exceed \$5,700,000 as contemplated in the grant application.

TriMet is partnering with PGE on the project to purchase, own, and maintain the charging infrastructure. This is a program being proposed as part of PGE's Transportation Electrification Plan required under state law (Public Utility Commission of Oregon Rulemaking AR 599). By covering the cost of the charging infrastructure, the partnership is enabling TriMet to purchase a fifth bus by freeing up TriMet funding that would have otherwise been spent on the infrastructure. PGE is in the process of securing Oregon Public Utility Commission approval of their plan, including the Electric Mass Transit 2.0 program under which this project is proposed. Approval is expected in the near future.

Buses delivered to TriMet under the proposed contract will include: low floor design, service ready battery, electric coaches with 210 kWh propulsion traction motors and 200 kWh capacity battery packs, air conditioning, automatic stop announcements and displays, interior and exterior CCTV cameras, LED lighting, and the latest electronics and diagnostics technology. Each will include the latest refinements in safety-related features. Safety, Training, and Bus Maintenance staff have reviewed all design details for this bus order.

## 6. Procurement Process

When submitting its grant application, TriMet chose to team with New Flyer (bus supplier) and CTE (program management consultant), and both those parties were named in the application. Therefore, the requested contract with New Flyer is classified as a procurement by noncompetitive methods, subject to 2 CFR 200.320(f), because TriMet is not required to conduct a competitive solicitation in accordance with the FTA NOFO. The NOFO specifically allowed for the applications to include partnerships between eligible public agencies and specific vehicle manufacturers, equipment vendors, or project consultants.

The term of the requested contract with New Flyer will be for 18 months with TriMet's option to renew for two additional one-year periods, only if TriMet receives locally sourced funding for expansion buses. The contract will be structured as a bus procurement and infrastructure agreement where TriMet shall pay the contractor upon the submission of invoices and TriMet's completion and approval of a Post Delivery Buy America Audit, and the delivery, commissioning and acceptance of the service ready buses, the on-route fast charger, the depot chargers, and the portable charger. The Grant Application specified the following project budget components:

<b>Project Components</b>	<b>Grant Application</b>	<b>New Flyer Initial Pricing</b>
Base New Flyer Excelsior Battery Buses	\$4,500,000	\$4,450,000
Options & Warrantees	\$225,000	\$326,086
Tools, Inspections & Training	\$75,000	\$66,931
On-route Fast Charger	\$500,000	\$451,540
Depot Chargers	\$300,000	\$279,510
Portable Charger	\$100,000	\$90,450
<b>Total</b>	<b>\$5,700,000</b>	<b>\$5,664,517</b>

New Flyer's initial pricing for each bus and charging infrastructure hardware type compares closely to the project budget. The per-bus amounts include training, special tools, test equipment, and optional extended warranties associated with the initial delivery, but do not include optional spare components.

All dollar figures shown above are in current FY2018 dollars. The contract includes a price escalation provision, based on a specific Producer Price Index pertaining to truck and bus production, should TriMet decide to exercise any option years.

This Resolution requests that the Board authorize the General Manager to execute the contract with New Flyer and issue the base year order for 5 zero emission battery electric buses and infrastructure hardware (FY2018-FY2019), and at the General Manager's discretion, issue option year orders one through two (FYs2019-FY2021), subject to available resources and annual budget approvals. Execution of the contract and future options are contingent upon successful pre-award audits as required to ensure compliance with FTA Buy America provisions.

New Flyer, founded in 1930, is the largest transit bus and motor coach manufacturer and parts distributor in North America. New Flyer's zero emission battery electric bus is based on the stylized Xcelsior platform – a proven design with over 8,000 deliveries in North America. New Flyer has extensive experience with electric propulsion including hybrid, trolley, and fuel cell buses. TriMet's past experience with New Flyer, along with references from other agencies, are both favorable.

## **7. Diversity**

New Flyer manufactures and assembles all of its zero emission battery electric buses at one location in Anniston, AL, and does not subcontract manufacturing of its buses. Charging infrastructure hardware will be supplied by Siemens out of its Tualatin, Oregon facility, a subcontractor to New Flyer.

New Flyer submitted TriMet's required workforce diversity form, reflecting 505 total employees, 14.5% minority and 18.4% female.

FTA regulations regarding participation by Disadvantaged Business Enterprises (DBEs) in FTA-assisted programs (49 CFR Part 26) require transit vehicle manufacturers to certify compliance with Section 49 of Part 26, to be eligible to bid or propose on FTA-assisted transit vehicle procurements. Section 49 requires transit vehicle manufacturers to submit directly to FTA a DBE participation goal for FTA approval. New Flyer's current FTA-approved DBE participation goal is 4.10%. Individual transit agencies have no role in this FTA process.

## **8. Financial/Budget Impact**

Zero emission battery electric buses and charging infrastructure hardware purchases under the proposed contract is being provided in part by the FTA as a grant award resulting from the Low or No Emission Grant Program. The local share of the overall project budget (\$3,859,250) is included in the Capital Improvement Program budget for FY2018-20.

**9. Impact if Not Approved**

New Flyer was named in the grant application. If this contract is not approved, TriMet would not be compliant with the grant application conditions, and thus would not be eligible for grant award under the Low or No Emission Grant Program.

**RESOLUTION 17-08-64**

**RESOLUTION OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING A CONTRACT WITH NEW FLYER OF AMERICA, INC. FOR PURCHASE OF XCELSIOR 40' ZERO EMISSION ELECTRIC BUSES AND CHARGING INFRASTRUCTURE FOR FIXED ROUTE SERVICE**

**WHEREAS**, TriMet has authority under ORS 267.200 to enter into a contract with New Flyer of America, Inc. for the acquisition of five Xcelsior 40' zero emission electric buses and charging infrastructure for fixed route service, resulting from a Federal Transit Administration (FTA) grant award; 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 in an amount not-to-exceed \$5,700,000.

Dated: August 9, 2017

\_\_\_\_\_  
Presiding Officer

Attest:

\_\_\_\_\_  
Recording Secretary

Approved as to Legal Sufficiency:

  
\_\_\_\_\_  
Legal Department