

Date: May 25, 2022**To:** Board of Directors**From:** Sam Desue, Jr**Subject:** **RESOLUTION NO. 22-05-30 OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING AN INCREASE IN CONTRACT AUTHORITY FOR CONSTRUCTION MANAGER/ GENERAL CONTRACTOR SERVICES FOR THE DIVISION TRANSIT PROJECT CONTRACT WITH RAIMORE CONSTRUCTION****1. Purpose of Item**

This Resolution requests that the TriMet Board of Directors (Board) authorize the General Manager or his designee to increase the Board contract authority with Raimore Construction, Inc. (Raimore) for the Construction Manager/General Contractor (CM/GC) services contract for the Division Transit Project (Project).

2. Type of Agenda Item

- Initial Contract
 Contract Modification
 Other _____

3. Reason for Board Action

Board approval is required to increase the total contract amount beyond that previously authorized by the Board.

4. Type of Action

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

5. Background

The Division Transit Project will provide high-capacity transit service to the 15-mile long Division corridor between downtown Portland and Gresham. The Project is expected to cost approximately \$175 million, about one-half of which has been provided by the Federal Transit Administration (FTA). On January 23, 2020, the FTA awarded TriMet \$87,413,950 of the Project funding through a Single Year Grant Agreement.

At its July 25, 2018 meeting, the Board approved Resolution 18-07-54, authorizing award of a contract in the amount of \$395,000 to Raimore for CM/GC pre-construction services for the Project. At its September 18, 2019 meeting, the Board approved Resolution No. 19-09-76,

authorizing a modification to the Raimore contract in the amount of \$7,700,000 (plus a change order allowance of \$770,000). That modification added construction services and allowed early work to begin prior to final negotiation of the Total Contract Price (TCP). At its March 25, 2020 meeting, the Board approved Resolution No. 20-03-14, authorizing a modification to the contract in the amount of \$63,441,452 (plus a change order allowance of \$6,344,145) to reflect Raimore’s Total Contract Price for construction, and the full scope of the Division Transit Project.

The Notice to Proceed was issued on January 23, 2000. However, a few months into the Project, the Covid-19 pandemic began and Raimore faced unprecedented challenges with its workforce, having to develop and implement new rules and regulations required by the pandemic. Shortly after Raimore had adapted to the “new normal” for construction projects during a pandemic, the September 2020 wildfires and the February 2021 ice storm contributed to material shortages and the increased material and labor costs that Raimore already was confronting.

In addition, TriMet was unable to secure access to necessary real property as originally planned, and design and permitting challenges resulted in various changes along the alignment. This required Raimore to re-sequence its activities and construction time-line several times. Despite these hardships and owner-directed changes, Raimore was able to maintain its schedule, but at a significant increase in costs.

Generally, these cost increases resulted from:

- Global pandemic economic dislocations
- Escalation in labor and materials costs
- Delays in ROW acquisition
- TriMet-requested design changes

TriMet has reviewed and analyzed the impacts and associated costs beyond Raimore’s control, and finds that the additional work and impacts were outside of the original contract scope and that a cost increase is warranted. TriMet’s independent cost estimate confirms that the cost increases are fair and reasonable.

As shown in the chart below, this Resolution requests additional contract authority to allow a final cost reconciliation with Raimore to cover project-wide cost increases of \$4,600,000 over the last two and one-half years of construction.

| | Contract Amount | Change Order Allowance 10% | Total Amount |
|--|-----------------|----------------------------|---------------------|
| Initial Pre-Construction Services Contract Authority (Resolution No. 18-07-54) | \$395,000 | | \$395,000 |
| Early Work Authority (Resolution No. 19-09-76) | \$7,700,000 | \$770,000 | \$8,470,000 |
| Full Construction Services (Resolution No. 20-03-14) | \$63,441,452 | \$6,344,145 | \$69,785,597 |
| Total Current Contract Authority | | | \$78,650,579 |
| Cost Reconciliation (Resolution No. 22-05-30) | \$4,600,000 | | \$4,600,000 |
| Total New Authorized Contract Amount | | | \$83,250,579 |

Despite these challenges, Raimore has provided excellent performance to date. The Project is

nearing its substantial completion milestone of June 1, 2022, and will be ready to begin revenue service on September 18, 2022. The Project remains on schedule and within its budget, even after including the \$4,600,000 amount of the cost reconciliation.

6. Procurement Process

The original contract was procured through a competitive Request for Proposals (RFP) process.

7. Diversity

Raimore is a certified Disadvantaged Business Enterprise (DBE) firm, and is self-performing fifty-one percent (51%) of the work. In addition, Raimore has employed 27 first tier (DBE) subcontractors for approximately thirty-six percent (36%) of the work. At the time of award for construction, this contract represented the largest DBE award in Oregon's history.

8. Financial/Budget Impact

TriMet's payment of these additional costs would increase the total contract amount by approximately 5.8%, but would not exceed the Project budget. The Project is included in the approved FY 2022 and FY2023 Capital Program budget, and the \$87,413,950 federal share has been secured.

9. Impact if Not Approved

Raimore has performed very well on the Project during challenging conditions, and even with this proposed increase in authority the Project is within budget. However, failure to approve this Resolution could prompt a contract claim from Raimore for the stated amount, which could jeopardize moving forward with remaining construction activities and risk not meeting the Project's schedule for opening and final completion.

RESOLUTION NO. 22-05-30

**RESOLUTION NO. 22-05-30 OF THE TRI-COUNTY METROPOLITAN
TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING AN
INCREASE IN CONTRACT AUTHORITY FOR CONSTRUCTION MANAGER/
GENERAL CONTRACTOR SERVICES FOR THE DIVISION TRANSIT
PROJECT CONTRACT WITH RAIMORE CONSTRUCTION**

WHEREAS, TriMet has authority under ORS 267.200 to increase the amount of its contract with Raimore Construction, Inc. (Raimore) for Construction Manager/General Contractor (CM/GC) services for the Division Transit Project (Project); and

WHEREAS, by Resolution dated October 25, 2017, the TriMet Board of Directors (Board) adopted a Statement of Policies requiring the Board to approve contracts for goods and services obligating TriMet to pay in excess of \$1,000,000; and

WHEREAS, under Resolutions No. 18-07-54, No. 19-09-76 and No. 20-03-14, the Board authorized TriMet to enter into a CM/GC services contract with Raimore for the Project and authorized payment of the Raimore contract for the Project in the total amount of \$78,650,579 to date; and

WHEREAS, Resolution No. 22-05-30 would authorize payment of an additional \$4,600,000 for the Raimore contract for the Project; and

WHEREAS, Resolution No. 22-05-30 would obligate TriMet to pay in excess of \$1,000,000 and would exceed the contract amount previously authorized by the Board;

NOW, THEREFORE, BE IT RESOLVED:

1. That the increase in contract authority shall conform with applicable law.
2. That the General Manager or his designee is authorized to execute an increase in the amount of the Raimore contract not to exceed \$4,600,000, for a total new contract amount of \$83,250,579, through the projected September 2022 contract termination date.

Dated: May 25, 2022



Presiding Officer

Attest:



Recording Secretary

Approved as to Legal Sufficiency:



Legal Department