

Date: March 27, 2024

To: Board of Directors

From: Sam Desue, Jr.



Subject: **RESOLUTION NO. 24-03-17 OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING ESTABLISHMENT OF THE OTHER POST-EMPLOYMENT BENEFITS (OPEB) TRUST FOR ELIGIBLE UNION AND NON-UNION PARTICIPANTS**

1. Purpose of Item

This Resolution requests that the TriMet Board of Directors (Board) authorize the General Manager or his designee to establish the Other Post-Employment Benefits trust (OPEB trust) for eligible union and non-union retirees and their dependents (Participants). This Resolution also updates the Administration Committee members for the OPEB trust.

2. Type of Agenda Item

- ☐ Initial Contract
- ☐ Contract Modification
- ☒ Other: Establishing the OPEB trust

3. Reason for Board Action

Board authorization is required to establish the OPEB trust.

4. Type of Action

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

5. Background

TriMet provides comprehensive benefit, retirement, and salary plans for its employees as part of a total compensation package. Eligible employees can also qualify for “Other Post-Employment Benefits” (OPEB), which include health benefits for retirees and their dependents. OPEB eligibility and the amount of OPEB benefits vary, and depend on the hire and/or retirement date for both non-union and union employees.

TriMet currently pays for these OPEB costs on a pay-as-you-go basis, making an annual contribution in the amount necessary to cover its share of health insurance premiums and stipends. For example, in FY2023 TriMet paid \$20,428,650 in OPEB costs. However, the full amount of TriMet’s OPEB liability is \$622,829,000, as noted in TriMet’s audited FY2023 financial statements.

In March 2009, the Board authorized the establishment of an OPEB trust, via Resolution No.

09-03-23. TriMet proposed to establish a Section 115 Trust, which is an irrevocable trust established by a governmental employer exclusively to fund OPEB. The Internal Revenue Service had recently issued several private letter rulings holding that where a governmental employer establishes and contributes to an irrevocable trust for the pre-funding and payment of retiree medical expenses: (a) the trust will qualify for the Code Section 115(1) exemption from tax on its income; (b) contributions to the trust will not be taxable to retirees or their eligible dependents; and (c) medical benefits or insurance received by retirees or their eligible dependents from the trust will not be taxable to them. TriMet informed the Board that it did not intend to make any significant contributions to the OPEB trust in the near future, but rather to gradually fund the trust over time.

Apart from the OPEB trust, TriMet also has two defined benefit pension plans, one for union employees and one for non-union employees. Both plans have been closed for many years, meaning that no new participants have entered (or can enter) either plan. The non-union plan has been closed since 2003, and the union plan has been closed since 2012.

In July 2014, the Board adopted a Strategic Financial Plan (SFP), via Resolution No. 14-07-37. The SFP was the result of more than two years of work by the Board's Finance & Audit Committee. The SFP expressly provided a strategy for funding the pensions and an OPEB trust. Specifically, TriMet was to focus on funding the pensions over a fifteen year amortization schedule, and only when both pensions had become fully funded would TriMet then turn to funding an OPEB trust. Since neither pension was at or near fully funded status at the time, no action was taken to set up or begin funding an OPEB trust.

In December 2019, the Board updated the Strategic Financial Plan, via Resolution No. 19-12-89. The approach of funding the pensions first, then the OPEB trust, remained the same.

In 2023 the Board adopted a somewhat more flexible funding policy with respect to the pensions and the OPEB trust, via Resolutions No. 23-06-24 and No. 23-09-41. Specifically, the Board recognized that both pensions were at healthier funding levels than in 2014, such that – at least in years where market performance was as expected or better – it could be prudent to allow for tandem contributions to the pension plans and the OPEB trust in the same year. These Board actions paved the way for the possibility that TriMet would be able to make contributions to an OPEB trust within the next five years.

In anticipation of that possibility, TriMet began the process of setting up an OPEB trust. Part of that process included a review of the original 2009 Resolution authorizing the establishment of an OPEB trust. During that review, TriMet learned that Resolution No. 09-03-23 had authorized the establishment of an OPEB trust for eligible non-union Participants only, and omitted union Participants.

Cheiron is an independent actuarial firm that advises the Trustees for both TriMet pension plans, and provides certified annual statements to TriMet on its OPEB liability. Cheiron has advised TriMet that a single OPEB trust will provide for flexibility with investment holdings and reduce administrative costs, thereby maximizing net investment returns. Accordingly, this Resolution authorizes the establishment of the OPEB trust to include eligible union and non-union Participants.

Including eligible union participants in the OPEB trust does not change any union eligibility for OPEB benefits, the amount of such benefits, or the timing of such benefits. It simply provides another funding stream for those benefits in addition to TriMet's current pay-as-

you-go method.

Resolution No. 09-03-23 also established an Administration Committee for the OPEB trust. Whereas in an OPEB trust the “Trustee” is the financial institution that will hold the funds in trust, the Administration Committee is the body that will select an investment manager, develop an investment policy, and monitor trust performance. The Administration Committee will not determine the timing or amount of funding the trust; this remains TriMet’s sole prerogative, acting consistently with Board-adopted funding policies.

Administration Committee members identified in the 2009 Resolution included the General Manager, as well as a named employee who retired from TriMet years ago and does not wish to serve. The current Resolution would update the Administration Committee members to remove the General Manager as a committee member and identify all committee members by office/position only, rather than by name.

6. Financial/Budget Impact

Potential future contributions to the OPEB trust would be consistent with the funding policies adopted in Resolutions No. 23-06-24 and No. 23-09-41, and accounted for in a particular fiscal year’s Board-adopted budget. It is TriMet’s expectation that the OPEB trust will grow enough over time to significantly offset the current pay-as-you-go funding method for OPEB liabilities.

7. Impact if Not Approved

TriMet can continue to make annual pay-as-you-go payments for eligible union and non-union retirees and their dependents without establishing an OPEB trust for union and non-union Participants. However, establishing an OPEB trust to include both eligible union and non-union Participants allows TriMet the flexibility to make additional deposits to hasten the amortization of the unfunded OPEB liability.

RESOLUTION NO. 24-03-17

**RESOLUTION NO. 24-03-17 OF THE TRI-COUNTY METROPOLITAN
TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING
ESTABLISHMENT OF THE OTHER POST-EMPLOYMENT BENEFITS
(OPEB) TRUST FOR ELIGIBLE UNION AND NON-UNION
PARTICIPANTS**

WHEREAS, TriMet has authority under ORS 267.200 to establish an Other Post-Employment Benefits trust to provide a source of funding for health coverage (OPEB trust) for eligible retirees and dependents (Participants); and

WHEREAS, the TriMet Board of Directors (Board) is authorized to approve the establishment of an OPEB trust; and

WHEREAS, the Board, via Resolution No. 09-03-23, previously authorized the establishment of an OPEB trust for eligible Management and Staff (non-union) retirees and dependents; and

WHEREAS, the Board wishes to authorize the establishment of an OPEB trust to include eligible union and non-union retirees and dependents, and appoint its Administration Committee;

NOW, THEREFORE, BE IT RESOLVED:

1. That the General Manager or his designee is authorized to establish an OPEB trust for eligible union and non-union retirees and dependents (Participants).
2. That the individuals holding the following TriMet offices are appointed and shall serve on the Administration Committee of the OPEB trust:
 - a. Chief Financial Officer
 - b. General Counsel/Executive Director of Legal Services
 - c. Executive Director of Labor Relations and Human Resources
 - d. Director of Financial Services
 - e. Director of Benefits

Dated: March 27, 2024

Presiding Officer

Attest:

Recording Secretary

Approved as to Legal Sufficiency:



Legal Department