

Date: October 22, 2014

To: Board of Directors

From: Neil McFarlane

Subject: RESOLUTION 14-10-52 OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING THE GENERAL MANAGER AND THE CHIEF NEGOTIATOR TO ENTER INTO A NEW WORKING AND WAGE AGREEMENT WITH DIVISION 757 AMALGAMATED TRANSIT UNION

1. Purpose of Item

Resolution 14-10-52 authorizes TriMet’s General Manager and its Chief Negotiator to execute the following agreements and documents: (a) TriMet and Division 757 Amalgamated Transit Union Working and Wage Agreement, effective December 1, 2012 through November 30, 2016; and (b) Any and all Supplemental Agreements, Side Letters, and other documents that are necessary to execute for purposes of entering into a new Working and Wage Agreement and to effectuate the purposes of this Resolution.

2. Type of Agenda Item

- Initial Contract
- Contract Modification
- Other: Working and Wage Agreement

3. Reason for Board Action

Board approval is requested to authorize TriMet to enter into a new Working and Wage Agreement with the Division 757 Amalgamated Transit Union (“ATU”).

4. Type of Action:

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

5. Background

In September 2013 TriMet and the ATU formally opened negotiations for a new Working and Wage Agreement (“WWA”). On September 30, 2014, TriMet and ATU reached a tentative agreement for a new WWA. The term of the new WWA is from December 1, 2012 to November 30, 2016, and does not take full force and effect until it is ratified by the membership of the ATU and approved by TriMet’s Board of Directors (“Board”). The ATU has agreed to recommend the tentative WWA to their membership for ratification. TriMet has agreed to seek Board ratification and authorization for the General Manager and Chief

Negotiator to execute the new WWA. TriMet's Board has been advised and informed of the progress and direction of collective bargaining negotiations and substantive changes proposed for the new WWA. The General Manager recommends that the Board approve the new WWA by authorizing the General Manager and the Chief Negotiator to execute the new WWA.

6. Financial/Budget Impact

The Tentative Agreement results in a financial forecast that is sustainable, assuming historical rates of TriMet's revenue growth continue. Compared to the status quo, the Tentative Agreement allows TriMet to avoid nearly \$50 million in costs it otherwise would incur over the course of the 4-year agreement: \$7.3 million in Year 1; \$12.9 million in Year 2; \$13.1 million in Year 3; and \$16.8 million in Year 4. The impact of the Tentative Agreement comes in the form of cost avoidance; absolute costs will continue to increase, but at a much reduced rate. Cost reduction per full time equivalent employee (FTE) is \$23,925 per FTE over the course of the Agreement: \$3,663 per FTE in Year 1; \$6,213 in Year 2; \$6,151 in Year 3; and \$7,899 in Year 4.

The Tentative Agreement has a marked impact on TriMet's Other Post Employment Benefits (OPEB) liability and Pay-As-You-Go costs. The Tentative Agreement reduces 30-year OPEB benefit payments by 37%, a total of \$782 million, lowering the payments from \$2.095 billion under the status quo scenario to \$1.313 billion under the Tentative Agreement. The Tentative Agreement is expected to reduce the OPEB Actuarial Accrued Liability for the Union Plan by \$228 million, from \$869 million under the status quo scenario to \$641 million under the Tentative Agreement. With the defined benefit pensions on a path to full funding pursuant to the Board's Strategic Financial Plan, and OPEB benefits costs reduced pursuant to the Tentative Agreement, TriMet could, over time, reasonably begin funding an OPEB Trust, as called for in the Strategic Financial Plan. Funding could be commenced most reasonably and effectively once Oregon law permits OPEB trust funds to be invested in a manner similar to pension funds.

7. Impact if Not Approved

If the Tentative Agreement is not ratified by the parties, the parties would continue moving toward interest arbitration. Arbitration is scheduled for late January 2015. The arbitration decision likely would be issued approximately 60 days later. Moreover, prevailing in the interest arbitration is uncertain. Even if TriMet prevailed in the arbitration, implementation of the arbitration award would take a period of time. Under Oregon law, both parties submit Last Best Offers to the interest arbitrator. The interest arbitration then selects one party's complete offer and rejects the other party's offer entirely. Consequently, even if TriMet submitted a Last Best Offer identical to the Tentative Agreement reached by the parties, the results would be delayed by several months, at best. However, there is no guarantee of prevailing.

Employees have been working without a contract since the predecessor contract expired on November 30, 2012. If this Tentative Agreement is not ratified, then at a minimum it would be several months until TriMet could implement the health care plans negotiated by the parties and have employees and retirees begin sharing in health care costs by contributing 5% of the premium. TriMet also would be unable to implement the 80/20 PPO plan effective January 1, 2015, which has a lower premium cost than the existing 90/10 PPO plan due to increased deductibles and out-of-pocket maximums. Similarly, TriMet would be unable to replace the \$5.00 HMO plan with the \$10.00 HMO plan. Finally, and most importantly,

failure to ratify the Tentative Agreement would mean that TriMet would be unable to implement new retiree health care benefits for new hires when they retire. Maintaining the status quo until an arbitration decision means that new hires between now and then enjoy current retiree health care benefits when they retire instead of reducing pre-65 health care benefits to an \$800.00/month stipend and eliminating benefits altogether once they are Medicare eligible. In turn, such a delay would defer TriMet's ability to effectively reduce and manage its OPEB liability.

RESOLUTION 14-10-52

RESOLUTION OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING THE GENERAL MANAGER AND THE CHIEF NEGOTIATOR TO ENTER INTO A NEW WORKING AND WAGE AGREEMENT WITH DIVISION 757 AMALGAMATED TRANSIT UNION

WHEREAS, TriMet has authority pursuant to ORS 267.200 to enter into Working and Wage Agreements; and

WHEREAS, TriMet and Division 757 Amalgamated Transit Union have reached agreement on a new Working and Wage Agreement;

NOW, THEREFORE, BE IT RESOLVED:

That the TriMet Board of Directors hereby ratifies and authorizes the General Manager and the Chief Negotiator to execute the following agreements and documents:

1. TriMet and Division 757 Amalgamated Transit Union Working and Wage Agreement, effective December 1, 2012 through November 30, 2016.
2. Any and all Supplemental Agreements, Side Letters, and other documents necessary to execute for purposes of entering into a new Working and Wage Agreement and to effectuate the purposes of this Resolution.

Dated: October 22, 2014

Presiding Officer

Attest:

Recording Secretary

Approved as to Legal Sufficiency

Legal Department