

Date: July 25, 2012

To: Board of Directors

From: Neil McFarlane

Subject: **RESOLUTION 12-07-64 OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING A STREETCAR MASTER AGREEMENT AND A STREETCAR OPERATING AGREEMENT WITH THE CITY OF PORTLAND**

1. Issue or Purpose of Item

The purpose of this item is to request that the TriMet Board of Directors ("Board") approve a resolution authorizing the General Manager to enter into a Streetcar Master Agreement, and a Streetcar Operating Agreement, with the City of Portland ("City").

2. Reason for Board Action

The **Streetcar Master Agreement** ("Master Agreement") covers understandings between TriMet and the City for coordinated decision-making for development of any potential future Streetcar lines, and for TriMet and City shares of future Streetcar operating funding. The Master Agreement would:

- Require TriMet's inclusion in Streetcar decisions to ensure prudent transit investments and an integrated transit system.
- Reduce financial risk and clarify assumptions, especially related to future capital cost liability and future operating cost contributions for Streetcar; in particular the agreement establishes the City as responsible for initial capital costs and capital replacement needed in the future.

The Master Agreement does not commit to specific future TriMet funding for Streetcar operations, but sets out agreement with the City on a framework of considerations for future operations funding. The considerations set out in the agreement seek to balance TriMet's recognition of the Streetcar system's contribution to the regional transit system, with TriMet's responsibility to develop and increase the region's transit system. Because the Master Agreement describes TriMet's long-term policies with respect to the City's Streetcar system, Board authorization of the Master Agreement is requested. The Master Agreement sets the policy framework for the Operating Agreement and therefore, the two are included in the same resolution.

The **Streetcar Operating Agreement** ("Operating Agreement") renews and updates three (3) previous intergovernmental agreements (IGAs) between TriMet and the City, in effect since the beginning of Streetcar operations in 2001, covering specific procedures of TriMet funding, personnel, and other services provided to the City for Streetcar operations. The updated Operating Agreement consolidates the previous 3 Streetcar operating IGAs into a single IGA, with updated provisions as appropriate.

The Board authorized the original operating agreements April 4, 2001, and has authorized amendments extending the agreements, to the present time. The latest amendments of the operating agreements will expire August 31, 2011. Board authorization is required for IGAs obligating TriMet to pay in excess of \$500,000. Because the renewal Operating Agreement obligates TriMet funding for Streetcar operations greater than this threshold, Board authorization of the Operating Agreement is requested.

3. Background

The Portland Streetcar began operating July 20, 2001. The following timeline shows the highlights of prior Streetcar agreements between TriMet and the City, as well as Streetcar project openings.

April 2001	TriMet/City Streetcar Funding, Personnel, and Other Services IGAs signed
July 20, 2001	First Streetcar line opens
December 2004	Streetcar Funding, Personnel, and Other Services IGAs extended
March 11, 2005	Streetcar Extension to Riverplace opens
October 20, 2006	Streetcar Extension to SW Gibbs (South Waterfront) Opens
August 17, 2007	Streetcar Extension to SW Lowell (South Waterfront) Opens
August 2009	Streetcar Funding, Personnel, and Other Services IGAs extended
September 2010	Streetcar Funding, Personnel, and Other Services IGAs extended
August 31, 2012	Current Streetcar Funding, Personnel, and Other Services IGAs expire
September 22, 2012	Portland Streetcar Loop (Eastside) Grand Opening

During the initial years of Streetcar operations, TriMet provided the City approximately 2/3 of the funding for the Streetcar's annual operating cost. As the initial Streetcar system expanded, and as TriMet revenues were affected by the Great Recession resulting in reductions in TriMet bus and MAX service in FY10 and FY11, TriMet's share of funding has changed in recent years, to approximately 1/2 of the Streetcar's annual operating cost, notwithstanding annual adjustment of TriMet funding commitments for inflation. In FY12, TriMet will provide \$2.9 million, or 52%, of the Streetcar's \$5.6 million annual operating cost. In the Fall of 2012, the Streetcar Eastside extension will begin operations, and the total Streetcar system annual operating cost will increase to \$8.1 million. In FY11, TriMet defined a commitment to fund \$1.23 million of the annual operating cost of the Eastside extension, based on the cost of operating corresponding service with buses. However, TriMet's overall operating funding for Streetcar will be reduced by 7% in September 2012, or \$300,000 annually, corresponding to how much TriMet service would be reduced, if not for the TriMet fare changes September 2012.

The following table summarizes FY12 and FY13 TriMet funding for Streetcar operations:

\$ millions	FY12 - Westside	FY13 (annualized) Westside + Eastside before reduction	FY13 (annualized) Westside + Eastside after reduction
Streetcar annual operating cost	5.57	8.11	8.11
TriMet funding for operations	2.93	4.26	3.96
TriMet funding percentage	52.6%	52.5%	48.8%

In general, under the TriMet-City Streetcar Funding IGA in effect since 2001, TriMet funding for Streetcar operations has been determined on a year-by-year basis, and the City and TriMet's respective responsibilities for development, operations funding, and capital replacement of the system have not been fully defined. The new Master Agreement defines these responsibilities between the City and TriMet for the Streetcar system, and provides guidelines for TriMet's consideration of Streetcar operations funding in future years.

Summary of Master Agreement

The Master Agreement establishes a formal process to ensure a “permanent, continuous, cooperative working relationship between the City and TriMet” regarding the Portland Streetcar. A Permanent Executive Group (PEG) will ensure cooperation between City and TriMet, including the General Manager and a City commissioner appointed by the Mayor. The PEG would ensure coordination between the City and TriMet for decisions regarding current service and any possible future streetcar lines. Most fundamentally, no future streetcar projects would be pursued without the concurrence of both TriMet and the City, and any future decisions about TriMet and City shares for Streetcar operations funding would be tied to ridership and consistency with TriMet and City financial planning and budget processes.

The Master Agreement clearly places on the City of Portland financial responsibility for capital funding of any potential future streetcar lines within the City, and for capital replacement of the existing streetcar system. It also provides that TriMet must agree, before any future Streetcar line requiring operating funds from TriMet could advance.

Under the Master Agreement, TriMet recognizes the Streetcar system as an element of the region's Frequent Service transit network. Streetcar would not be prioritized above Frequent Service bus. Therefore, the agreement provides that as TriMet plans to restore service on its Frequent Service bus lines affected by TriMet's FY10, FY11, and FY13 budget reductions, it will plan commensurate restoration of TriMet's Streetcar operations funding reductions implemented in September of 2009, 2010, and 2012. Future increases or cuts to funding levels to Streetcar would be commensurate with such changes to Frequent Service bus.

The Master Agreement recognizes the benefits to development and transit ridership generated by the Streetcar system, and in return provides for future increases in TriMet funding for Streetcar lines up to 85% of operating costs net of Streetcar-collected fares and other revenues, if and when a line meets specific ridership and development thresholds, and if TriMet's financial plan and budget allows without detriment to TriMet's ability to develop and increase service for the region's total transit system.

If and when TriMet agrees, under the processes and conditions described in the Master Agreement, to increase TriMet's funding to City for operations of current Streetcar lines, or for a future Streetcar line, such increases will at all times be subject to TriMet's budget process, including the Board's authorization of TriMet's budgets, and if so approved, will then be specified in the Operating Agreement's funding provisions for the specific fiscal year period(s).

The term of the Master Agreement is defined as continuing indefinitely, with either party able to terminate the agreement upon one-year's notice to the other party.

The Agreement does not express or imply that TriMet funding for Streetcar service has priority over the use of TriMet funding for the transit services which TriMet operates, but states criteria for Streetcar system performance which will lead TriMet to consider increased funding for Streetcar service. The Agreement does not change the fact that TriMet's consideration of funding for Streetcar service will always be subject to all of the considerations which TriMet must balance in its budget and service planning, and will always be subject ultimately to the TriMet Board's annual budget decisions.

In response to Board comments from the briefing on July 11, TriMet and the City staff agreed to several changes to the proposed Agreement, including greater emphasis on TriMet's focus on "ridership" and "connectivity" not just "mobility," more consistent language about TriMet's contribution to operations funding, and decision-making by the PEG.

The General Manager will report back to the Board within one year of the execution of the agreement on two items identified by the Board: 1) any potential issues with possible extensions of streetcar beyond the City of Portland boundaries and 2) the regional balance of funding for transit and how Streetcar affects this balance. The report to the Board would include an assessment of any potential need for addenda to the agreement related to these or other issues.

Summary of Operating Agreement

The Operating Agreement specifies that TriMet will provide \$3,752,883 to City during FY13 for Streetcar operations. (This is the same funding level referenced on the preceding page as \$3.96 million annualized, but reflects that operations start-up of Eastside Streetcar in Fall 2012 occurs after the beginning of FY2013.) It provides that TriMet's funding to City for Streetcar operations in future years will be determined by TriMet's annual budget development, as approved by the TriMet Board, and that funding maintained in future years will be adjusted for CPI inflation.

The Operating Agreement provides that TriMet will furnish personnel to the City to operate and maintain the Streetcar vehicles, and that City will pay TriMet for wage and benefit costs for such personnel, as well as a 10% additive for TriMet overhead costs. This reimburses TriMet for the personal services costs which appear in TriMet's annual budget under the "Streetcar department", which are \$5.6 million in TriMet's FY13 budget. In return for TriMet not including Other Post-Employment Benefit (OPEB) costs in the personnel benefit costs charged to the City, the City agrees that TriMet will retain revenues from FTA Fixed Guideway Modernization Funds attributable to the Streetcar system.

The Operating Agreement provides that TriMet will furnish "Other Services" to the City for Streetcar operations. These services primarily consist of maintenance of Streetcar track, signals, and overhead electrification by TriMet's light rail Maintenance of Way department. TriMet bills the City monthly for its actual hourly costs for personnel and equipment used in providing the Other Services, as well as a 10% additive for TriMet administrative overhead. Streetcar Other Services billings to City currently average approximately \$200,000 annually, and are estimated at \$235,000 in FY13 with addition of Eastside Streetcar.

The term of the Operating Agreement begins September 1, 2012 (continuing from the 2001 and later Funding, Personnel and Other Services IGAs which expire August 31, 2012), and extends to June 30, 2015. Since the Operating Agreement currently specifies exact TriMet funding to City for Streetcar operations only for FY13 (through June 30, 2013), staff requests by this Resolution that the Board authorize the General Manager to amend the Operating Agreement for FY14 and FY15, with values based on the updated CPI inflation rate at the time of the amendment, but not to exceed the following:

• TriMet funding for Streetcar operations specified for FY13 (reflects part-year operation of Eastside Streetcar)	\$3,752,883
• TriMet FY14 funding for Streetcar operations, assuming up to 4% CPI inflation on the FY13 annualized funding level of \$3,963,250	\$4,121,780
• TriMet FY15 funding for Streetcar operations, assuming up to 4% CPI inflation on the FY 14 funding level	<u>\$4,286,651</u>
Total FY13-FY15 funding authorized by this Resolution	\$12,161,314

Staff will come back to the Board to request authorization of the FY14 or FY15 amendments to the Operating Agreement, if TriMet funding for Streetcar operations in either FY14 or FY15 is proposed greater than the above amounts (for example, if those future budgets allow restoration of some previously-cut Frequent Service bus and Streetcar frequency).

4. Options

The Board may:

- approve the resolution,
- approve the resolution conditioned on specific changes to the agreements,
- approve either agreement only, via an amended resolution, or
- not approve the resolution.

The Master Agreement clarifies City and TriMet roles and responsibilities and provides guidance for future coordination between the City and TriMet for development and operations funding for the Streetcar system. The Operations Agreement provides funding, personnel and other services for day-to-day ongoing operations of the Streetcar system, which need to be continued beyond the August 31, 2012 expiration of the current TriMet-City Streetcar IGAs, to allow for continuation of Portland Streetcar operations.

5. Recommendation

The General Manager recommends that the Board approve the Resolution.

RESOLUTION 12-07-64

RESOLUTION OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING A STREETCAR MASTER AGREEMENT AND A STREETCAR OPERATING AGREEMENT WITH THE CITY OF PORTLAND

WHEREAS, TriMet has authority under ORS 267.200 to enter into a Streetcar Master Agreement and a Streetcar Operating Agreement with the City of Portland (“Agreements”); and

WHEREAS, The City and TriMet jointly fund the operations of the Portland Streetcar system; and

WHEREAS, TriMet recognizes the contribution of Streetcar system in encouraging development near the Central City, and in reducing reliance on automobile travel in accord with TriMet’s vision and goals. Streetcar projects have leveraged transit investment from the City, private entities and the federal government that promote sustainable development without requiring capital investment from TriMet; and

WHEREAS, under the Master Agreement, TriMet and the City of Portland desire to formally agree that any future Portland Streetcar project requires the approval of both the City and TriMet, and desire to formalize the roles of each party with respect to responsibility for capital funding for any future streetcar projects, operations funding for current and future streetcar service, and capital replacement of the streetcar system; and,

WHEREAS, the Master Agreement creates a formal structure through which decision-making by the City and TriMet will be coordinated and developed in partnership, regarding the future development and operations of the Portland Streetcar System; and

WHEREAS, the Operating Agreement renews previous intergovernmental agreements between TriMet and the City, since the beginning of Streetcar operations in 2001, covering specific procedures of TriMet funding, personnel, and other services provided to the City for Streetcar operations; and

WHEREAS, the total amount of the Operating Agreement shall exceed \$500,000; and

WHEREAS, the TriMet Board of Directors (Board), by Resolution November 25, 2009, adopted a Statement of Policies requiring the Board to approve intergovernmental agreements obligating TriMet to pay an amount exceeding \$500,000;

NOW, THEREFORE, BE IT RESOLVED:

1. That the General Manager is authorized to execute the Agreements.
2. That the General Manager shall report back to the Board within one year on the status of the Master Agreement.

Dated: July 25, 2012

Presiding Officer

Attest:

Recording Secretary

Approved as to Legal Sufficiency

Legal Department