

Date: May 26, 2021

To: Board of Directors

From: Sam Desue, Jr.

Subject: RESOLUTION 21-05-21 OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING THE MODIFICATION OF AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF PORTLAND FOR DESIGN AND CONSTRUCTION MANAGEMENT SERVICES FOR THE DIVISION TRANSIT PROJECT

1. Purpose of Item

This Resolution requests that the TriMet Board of Directors (Board) authorize the Interim General Manager or his designee to execute a modification (Modification) of an intergovernmental agreement (IGA) with the City of Portland (City) for design and construction management services related to the Division Transit Project.

2. Type of Agenda Item

- Initial Contract
- Contract Modification
- Other _____

3. Reason for Board Action

Board authorization is required for any IGA that obligates TriMet to pay an amount exceeding \$1,000,000.

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 Division Street corridor between downtown Portland and Gresham. The Project is projected to cost approximately \$175 million, about one-half of which has been provided by the Federal Transit Administration (FTA). Early construction work began in January 2020 in accordance with previous Board authority, and the project is nearly 60% complete.

On February 23, 2020, TriMet received \$87,413,950 of the Project funding from the FTA through a Single Year Grant Agreement (SYGA). The remaining approximately \$87 million is funded locally from various sources.

At its March 27, 2019 meeting, the Board approved Resolution 19-03-20, authorizing an IGA

with the City of Portland to allow TriMet to reimburse the City for its staff time spent performing tasks necessary to ensure the successful design and construction of those portions of the Project that fall within the City’s jurisdiction. These City tasks included design review, street opening permits, inspections, and traffic signal commissioning. As part of the original IGA, the City had estimated its staffing requirements during design and construction to be approximately \$2,000,000. At the time of approval, the project was at 60% design, and the scope of work had not been fully developed.

At its June 24, 2020 meeting, the Board approved Resolution 20-06-25, authorizing a Modification to the IGA to add \$3,200,000 for additional scope of work not included in the original IGA. This work included Portland Water Bureau (PWB) construction, and additional City services during construction, startup, and closeout.

As illustrated below, this Resolution 21-05-21 would add \$1,250,000 to the amount currently authorized for the IGA, which would provide for additional PWB construction, construction support services, and traffic signal integration work, and include change order authority of \$250,000. Much of the increase in this second Modification is attributed to expansion of the Project’s scope of work due to unforeseen conditions, many of which arise from underground utilities.

Item	Resolution	Amount
Original IGA	No. 19-03-20	\$2,000,000
IGA Modification #1	No. 20-06-25	\$3,200,000
Requested Authority for Additional Scope of Work	No.21-05-21	\$1,000,000
Requested Change Order Authority (25%)	No.21-05-21	\$250,000
Total for City of Portland Services		\$6,450,000

This model of reimbursing the City for staff fees under an IGA is consistent with past light rail projects, including the Portland Milwaukie, I-205/Portland Mall, Interstate MAX, and the Westside LRT Projects.

6. Procurement Process

Under the IGA, only the City may perform these services. TriMet and the City negotiated the terms of the IGA, and the additional costs are due to Project conditions that were unforeseen by the parties.

7. Financial/Budget Impact

These services are included in the Project budget.

8. Impact if Not Approved

TriMet could hire additional Project staff (either through direct hire or consultant contracts) to provide the additional design and construction services reflected in the second Modification of the IGA. Under that scenario, additional Project staff services still would be subject to City review and permit fees, which would be charged to the Project. Without continuing an integrated City/TriMet team to oversee and coordinate the Project, there would be losses in efficiency for coordination of issues, greater approval risk, and increases in the overall Project management, construction, and administration costs.

RESOLUTION 21-05-21

**RESOLUTION 21-05-21 OF THE TRI-COUNTY METROPOLITAN
TRANSPORTATION DISTRICT OF OREGON (TRIMET)
AUTHORIZING MODIFICATION OF AN INTERGOVERNMENTAL
AGREEMENT WITH THE CITY OF PORTLAND FOR DESIGN AND
CONSTRUCTION MANAGEMENT SERVICES FOR THE DIVISION
TRANSIT PROJECT**

WHEREAS, TriMet has authority under ORS 267.200 to enter into an intergovernmental agreement (IGA) with the City of Portland (City); and

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

WHEREAS, under Resolution No. 19-03-20, the Board authorized TriMet to enter into an IGA with the City for Design and Construction Management Services for the Division Transit Project (Project) in the amount of \$2,000,000; and

WHEREAS, under Resolution No. 20-06-25, the Board authorized a Modification of that IGA in the amount of \$3,200,000; and

WHEREAS, this second Modification to the IGA exceeds the amount previously authorized by the Board;

NOW, THEREFORE, BE IT RESOLVED:

1. That the IGA shall conform to applicable law.
2. That the Interim General Manager or his designee is authorized to execute the Modification of the IGA in the amount of \$1,250,000, for a total amended amount of the IGA not to exceed \$6,450,000, over the remaining 19 months of the Project.

Dated: May 26, 2021

Attest:

Presiding Officer

Recording Secretary

Approved as to Legal Sufficiency:

Gregory E. Skillman
Legal Department