

Date: July 26, 2023**To:** Board of Directors**From:** Sam Desue, Jr. **Subject:** **RESOLUTION NO. 23-07-33 OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING MODIFICATION OF AN INTERGOVERNMENTAL AGREEMENT WITH MULTNOMAH COUNTY FOR DISTRICT ATTORNEY INVESTIGATION AND PROSECUTION SERVICES****1. Purpose of Item**

This Resolution requests that the TriMet Board of Directors (Board) authorize the General Manager or his designee to execute a modification of an Intergovernmental Agreement (IGA) with the Multnomah County District Attorney's office (MCDA) for investigative and prosecution services (Modification).

2. Type of Agenda Item

- Initial Contract
 Contract Modification
 Other _____

3. Type of Contract Procurement

- Low Bid / Invitation to Bid (ITB)
 Request for Proposals (RFP) (inc. CM/GC)
 Request for Qualifications (RFQ) (Personal Services)
 The original IGA is a sole source contract

4. Reason for Board Action

Board authorization is required for intergovernmental agreements obligating TriMet to pay in excess of \$1,000,000.

5. Type of Action

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

6. Background

TriMet currently has an IGA for investigative and prosecutorial services with MCDA that will expire on June 30, 2025. Under the IGA, TriMet annually reimburses Multnomah County approximately \$313,467, plus a four percent (4%) annual Cost of Living Adjustment (COLA) for these services. The total amount authorized for the current IGA is \$978,519. The IGA provides TriMet with the services of one designated deputy DA, who is assigned to all TriMet felony cases in which the Transit Police Division, other local police agencies or

TriMet security staff (Customer Safety Supervisors) have cited individuals for criminal conduct on or around the District transit system. In addition to charging and prosecuting such cases, the assigned deputy DA relies upon the services of investigators to help ascertain the facts supporting the charges.

To address criminal activity on and adjacent to the transit system and provide safety for riders, employees and the community, it has become apparent that the need for these DA services will increase over the balance of the term of the IGA. Recognizing this need, TriMet's Executive Director for Safety and Security, Andrew Wilson, and Multnomah County District Attorney Mike Schmidt developed the elements of the proposed Modification. The proposed Modification would increase current IGA funding by the amount of \$1,101,600 for the remaining two years of the IGA (i.e., \$550,800 per year, including the 4% COLA). As a result, the current total amount of the IGA would increase from \$978,519 to \$2,080,119.

The additional funds would be used to engage the services of a second deputy DA, and add two DA Investigators to work on TriMet cases. Under the Modification, services of the currently assigned deputy DA who handles felony cases for TriMet would continue, and the Multnomah County District Attorney's office would assign an additional deputy DA to handle misdemeanor cases arising on the transit system and assist the Felony deputy DA.

The assigned Misdemeanor deputy DA would:

- Centralize misdemeanor case review and issue charges
- Prepare misdemeanor cases for trial, review CCTV evidence, develop trial strategy, prepare witnesses, draft legal motions and memoranda
- Provide a MCDA presence at the TriMet Safety and Security office
- Assist the Felony DA assigned to TriMet with the occasional felony trial
- Prepare monthly reports on the status and disposition of misdemeanor TriMet cases
- Become knowledgeable about the TriMet Code and its Safety and Security policies
- Provide continuity in the event of a reassignment or vacancy in the Felony DA position

The funds added to the IGA would also provide for up to two DA Investigators (at TriMet's discretion) who would assist the Misdemeanor and Felony DAs by locating and interviewing victims and witnesses, analyzing evidence, preparing exhibits and other evidence for trial, serving subpoenas, and collaborating with local, state and federal law enforcement.

The assigned DA Investigator(s) would:

- Assist the Multnomah County Sheriff's Office, TriMet Safety and Security Division and the assigned deputy DAs with investigations in support of prosecutions.
- Perform follow-up investigations, allowing uniformed Transit Police Division personnel to spend more time on the transit system.
- Increase the number of cases brought forward for prosecution and improve the quality of the cases for more successful prosecutions.
- Assist outside law enforcement agencies on criminal cases that occur adjacent to TriMet properties, i.e., near a MAX platform or transit center, or when suspects use the transit system in aid of a crime or to escape.
- Assist Washington and Clackamas counties with their investigations and prosecution

of TriMet system-related crimes arising in their jurisdictions.

If TriMet decides to request the services of a second DA Investigator, as allowed by the IGA, it would further bolster our overall security efforts and increase the quality of the cases that are taken forward for prosecution. A second Investigator would help speed up investigations as well. This would mean that more criminals will be held accountable in a timely manner, and would further free up Transit Police Division personnel from investigatory activities to spend more time providing presence on the system. It also would provide continuity when the first investigator is on vacation, sick or other leave time, as well as stability in the event an Investigator position becomes vacant.

The Board's authorization of the Modification would strengthen collaboration among the TriMet Safety and Security Division, the Multnomah County DA, the Transit Police Division and the Multnomah County Sheriff's Office, increasing the ability to hold accountable the people who commit crimes in and around the transit system. This Modification would enhance the ability of the agencies to fully enforce the laws that affect our public transit system, improving safety and security on the system for the benefit of TriMet's riders and employees, and the general public.

7. Description of Procurement Process

As an Intergovernmental Agreement, the contract with Multnomah County for District Attorney services is exempt from state procurement rules under ORS Chapter 279A. The price for the additional services provided under the Modification was negotiated by the District Attorney's office and TriMet's Executive Director of Safety and Security.

8. Diversity

The mission of Multnomah County's Office of Diversity and Equity is to "ensure access, equity and inclusion in County services, policies, practices and procedures." TriMet endorses the County's emphasis on diversity and equity and expects that the County will apply these policies in the employment and assignment of its deputy DAs and DA Investigators to provide investigative and prosecution services under this Modification.

9. Financial/Budget Impact

This Modification increases the currently authorized amount of the IGA from \$978,519 to \$2,080,119 over the remaining contract term.

10. Impact if Not Approved

If this Resolution is not approved, TriMet and the District Attorney's office would continue working under the existing IGA, but TriMet would forgo the opportunity to enhance safety and security within the District and hold more people accountable through more thorough and consistent prosecution of the misdemeanor and felony criminal cases that arise on the transit system.

RESOLUTION NO. 23-07-33

RESOLUTION NO. 23-07-33 OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING MODIFICATION OF AN INTERGOVERNMENTAL AGREEMENT WITH MULTNOMAH COUNTY FOR DISTRICT ATTORNEY PROSECUTION AND INVESTIGATION SERVICES

WHEREAS, TriMet has authority under ORS 267.200 to enter into a modification of an Intergovernmental Agreement (IGA) with the Multnomah County District Attorney's office for investigation and prosecution services (Modification); and

WHEREAS, TriMet is committed to providing a high level of safety and security to riders using the TriMet transit system, TriMet employees and the general public; and

WHEREAS, TriMet and the Multnomah County District Attorney (MCDA) wish to enhance safety and security on the transit system by increasing the level and success of investigations and prosecutions of individuals charged with felony and misdemeanor criminal conduct on and adjacent to the transit system; and

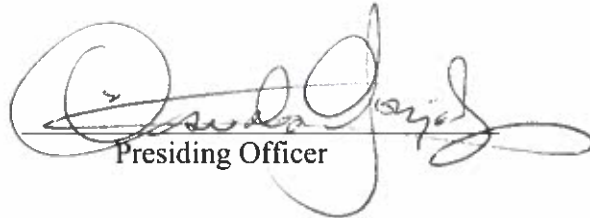
WHEREAS, by Resolution No. 22-05-35, dated May 25, 2022, the TriMet Board of Directors (Board) adopted a Statement of Policies requiring it to authorize contracts obligating TriMet to pay in excess of \$1,000,000; and

WHEREAS, the total amount of the Modification of the IGA exceeds \$1,000,000; and

NOW, THEREFORE, BE IT RESOLVED:

1. That the Modification shall conform with applicable law.
2. That the General Manager or his designee is authorized to execute the Modification in the amount of not more than \$2,080,119, through the IGA's June 30, 2025 termination date.

Dated: July 26, 2023


Presiding Officer

Attest:



Recording Secretary

Approved as to Legal Sufficiency:



Legal Department