

TRIMET
Memo

Date: September 23, 2020

To: Board of Directors

From: Doug Kelsey



Subject: RESOLUTION NO. 20-09-38 OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) TO REVISE TRIMET'S DEFINED CONTRIBUTION PLANS FOR ITS UNION-REPRESENTED AND MANAGEMENT AND STAFF EMPLOYEES TO REFLECT "CARES ACT" AMENDMENTS

1. **Purpose of Item**

This Resolution requests that the TriMet Board of Directors (Board) authorize the General Manager or his designee to direct the Committee administrators of TriMet's Defined Contribution Retirement Plans (Plans) for its union-represented and management and staff employees to amend the Plans to reflect changes allowed by the Coronavirus Aid, Relief and Economic Security Act of 2020 (CARES Act).

2. **Type of Agenda Item**

- Initial Contract
- Contract Modification
- Other: Amend Defined Contribution Retirement Plans

3. **Reason for Board Action**

The Board needs to authorize the amendment of TriMet's Defined Contribution Retirement Plans as recommended by the Committee for each Plan to incorporate new benefits and features allowed by the passage of the CARES Act.

4. **Type of Action**

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

5. **Background**

In response to the serious economic impact on many individuals resulting from the Covid-19 pandemic, Congress passed the Coronavirus Aid, Relief and Economic Security (CARES) Act on March 27, 2020. The CARES Act provided a broad range

of economic relief, including easing of restrictions on employees' ability to make use of assets held in defined contribution retirement plans and easing of certain distribution requirements for such plans.

Along with other relief, the CARES Act suspended required minimum distributions from employer sponsored retirement plans, like the TriMet Defined Contribution Plans, for 2020. For certain participants affected by the COVID-19 pandemic, referred to as "qualified individuals," the Act also permits up to a one-year delay in repayment of outstanding retirement plan loans due between March 27, 2020, and December 31, 2020, with the loan's amortization schedule revised to reflect the delay and the interest accrued during that period. In addition, the Act provides that all changes to the rules regarding loans and early distributions are at the option of the plan sponsor, and are not required to be adopted.

This Resolution incorporates into TriMet's Defined Contribution Retirement Plans for union-represented and management and staff employees certain provisions allowed by the CARES Act as well as certain changes required in order to remain consistent with actions taken by ICMA-RC, TriMet's third-party administrator for the two Plans. These changes are set forth in the attached Exhibit A, for union-represented employees, and Exhibit B, for management and staff employees.

In general, as shown on Exhibits A and B, this Resolution will make the following changes to the union and management/staff Plans:

- Allows employees to repay Coronavirus-Related Distributions (CRDs) taken from another employer's plan to the TriMet Plans by treating the repayment as a rollover contribution (Subsection 4.6.2 for union Plan; Subsection 4.7.2 for management/staff Plan)
- Eliminates automated lump-sum Required Minimum Distributions (RMDs) for 2020 from the Plan to participants of RMD age, and allows participants to return RMDs received to the Plan by August 31, 2020 (Subsection 6.6.4 for union Plan; Subsection 6.6.5 for management/staff Plan)
- Restricts new loans from the Plan to employed participants only, precluding beneficiaries from obtaining new loans from the Plan (Subsection 10.1 for union Plan; Subsection 10.1 for management/staff Plan)
- Allows terminated employees to re-pay loans after termination, but only for loans to terminated employees made on and after June 26, 2019 (Subsection 10.1.4(d) for union Plan; Subsection 10.1.4(d) for management/staff Plan)
- Requires participants taking an approved leave of absence from employment without pay to continue making loan payments during the leave and thereafter (Subsection 10.1.4(g) for union Plan; Subsection 10.1.4(g) for management/staff Plan)
- Allows qualified individuals to take additional loans from the Plan under increased limits, and allows refinancing of an existing loan (Subsection 10.3 for union Plan; Subsection 10.3 for management/staff Plan)

- Incorporates new dates on and after which qualified individuals are allowed to suspend loan repayments and take larger loans (Subsection 10.3.3 for union Plan; Subsection 10.3.3 for management/staff Plan)

6. Financial/Budget Impact

These changes will have no impacts on TriMet's operating budget. The Plans' Committee administrators will continue to exercise their fiduciary obligations to maintain the financial health of the Plans.

7. Impact if Not Approved

If the Resolution is not passed, TriMet's Defined Contribution Retirement Plans will be inconsistent with the actions currently undertaken by its Plan Committee administrators and will not reflect the benefits now permitted by the CARES Act.

**TRIMET DEFINED CONTRIBUTION
RETIREMENT PLAN FOR
UNION-REPRESENTED EMPLOYEES**

SECOND AMENDMENT

PARTIES

THIS AMENDMENT is hereby adopted by Tri-County Metropolitan Transportation District of Oregon (TriMet).

RECITALS

TriMet established the TriMet Defined Contribution Retirement Plan for Union-Represented Employees (the Plan), effective August 1, 2012.

The Plan was last amended effective August 9, 2018.

TriMet desires to amend the Plan again in certain respects.

AMENDMENT

The TriMet Defined Contribution Plan for Union-Represented Employees is hereby amended as generally described below and as specifically set forth on the Plan pages attached hereto. The amendments are shown in italic type on the relevant Plan pages, which are incorporated by reference herein and made effective on the dates indicated below:

1. ARTICLE 4 – CONTRIBUTIONS
 - a. Added Subsection 4.6.2 at page 15, effective March 27, 2020.
2. ARTICLE 6 – DISTRIBUTIONS AND WITHDRAWALS
 - a. Added Subsection 6.6.4 at page 23 (Elimination of Required Minimum Distributions in 2020), effective March 27, 2020.
3. ARTICLE 10 – LOANS
 - a. Amended Subsection 10.1 at pages 28-29, effective March 27, 2020, except as otherwise provided.
 - b. Added Subsection 10.3 at pages 30-30a (CARES Act loan provisions), effective April 21, 2020, except as otherwise provided.

TriMet has caused this amendment to be executed by its duly authorized representative as of the date set forth below.

TRI-COUNTY METROPOLITAN
TRANSPORTATION DISTRICT OF OREGON

By_____

Title_____

Date_____

predecessor employer within the meaning of the regulations under Code Subsection 415) under which the Participant receives annual additions are treated as one defined contribution plan for purposes of applying the limitations under this Subsection 4.5. To the extent that TriMet is ever a member of a group of commonly controlled trades or businesses or of an affiliated service group under the Code, then all employers in such group or groups shall be treated as a single employer for purposes of applying the limitations under this Subsection 4.5.

4.6 Rollover Contributions

4.6.1 Rollover Contributions Generally. An Eligible Employee who receives, or is entitled to receive, an Eligible Rollover Distribution as defined in 6.3.3(c), from an individual retirement account or annuity (IRA), another employer's qualified retirement plan, a 401(k) plan, a 403(b) tax sheltered annuity, or an eligible deferred compensation plan under Code section 457(b) that is sponsored by a state or local governmental employer, may elect to roll over all or part of that distribution into this Plan, either by making a rollover contribution within 60 days of receiving the Eligible Rollover Distribution, or by having all or a portion of the Eligible Rollover Distribution transferred to this Plan in a direct trustee-to-trustee transfer. Any rollover contribution under this section must be made in cash and is subject to the applicable requirements of the Code and IRS regulations and rollover contribution policies adopted by the Committee. The Plan reserves the right to refuse any rollover contribution that, in the judgment of the Committee or its delegate, would jeopardize the Plan's qualified status.

If the Plan accepts the rollover, the rollover amount will be added to the Participant's Account, but will be separately accounted for under the Plan. Rollover contributions are always 100 percent vested.

4.6.2 Coronavirus-Related Distributions Treated as Rollovers. An Eligible Employee who received a Coronavirus-Related Distribution ("CRD") pursuant to the requirements of Subsection 2202(a) of the Coronavirus Aid, Relief, and Economic Security ("CARES") Act of 2020 shall be permitted to repay any portion of a CRD to this Plan, provided that the repayment or repayments are made by no later than the end of the three-year period beginning on the date the CRD was received. The repayment to the Plan shall be treated as an indirect rollover, and the Committee may establish procedures for the acceptance of CRD rollovers.

4.7 Qualified Military Service

Contributions with respect to qualified military service will be provided as specified in the Plan and in accordance with applicable law, including Code Subsection 414(u).

6.6.1 Distributions to a Participant shall be made or begun not later than the Participant's required beginning date, and shall be made over a period not to exceed the Participant's life (or life expectancy) or the joint lives (or life expectancies) of the Participant and his or her designated beneficiary. A Participant's "required beginning date" is April 1 of the calendar year immediately following the calendar year in which the participant has both reached age 70½ and has retired.

6.6.2 If a Participant dies after distributions have begun in accordance with 6.6.1 above, but before receiving the entire amount of his or her Plan benefits, the remaining portion of the benefits shall be distributed at least as rapidly as under the distribution method being used at the time of the Participant's death.

6.6.3 If a Participant dies before distributions have begun in accordance with 6.6.1 above, the entire amount of the Participant's Plan benefits shall be distributed within five years after the Participant's death, except as otherwise provided in (a) or (b) below.

(a) If any portion of the Participant's Plan benefit is payable to, or for the benefit of, a designated beneficiary, that portion may be distributed over a period not to exceed the designated beneficiary's life (or life expectancy), provided that the distributions begin no later than one year after the Participant's death or, if later, by the date prescribed in regulations issued under Code Subsection 401(a)(9).

(b) If the designated beneficiary is the Participant's surviving spouse, the rules in (a) shall apply, except that the distributions to the surviving spouse are not required to begin before the date on which the Participant would have reached age 70½, and if the surviving spouse dies before distributions to the spouse begin, Subsections 6.6.2 and 6.6.3 shall be applied as if the surviving spouse were the Participant.

6.6.4 Notwithstanding anything in this Subsection 6.6 to the contrary, Required Minimum Distributions described under this Subsection 6.6 that would otherwise be made in the form of an automated lump-sum distribution during the 2020 calendar year shall not be made, pursuant to Subsection 2203 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020, unless the affected Participant makes an affirmative distribution election for 2020. Regular monthly distributions to Participants and lump-sum distributions requested by Participants that would satisfy the Required Minimum Distribution requirements shall still be made in 2020 unless the Participant requests suspension of the monthly withdrawals or elects to return the Required Minimum Distribution to the Plan by August 31, 2020.

ARTICLE 10. LOANS

10.1 Availability

The Committee may direct the Trustee to lend money to a Participant *who is an Employee* as follows:

10.1.1 General Rules. The Committee shall make loans available to *Employee-Participants* on a reasonably equivalent basis as follows:

- (a) The borrower must establish an intention and a reasonably certain capacity, and must enter into a legally enforceable agreement, to repay the loan and interest when due.
- (b) A loan shall be available for not less than \$1,000 and not more than the limits specified in 10.1.3.
- (c) *Except as provided under 10.3.3(a)*, no more than two loans may be outstanding for a Participant at one time.
- (d) The Committee shall establish rules for loans, which may include restrictions on timing, duration, and frequency of loans.
- (e) Reasonable fees may be charged to the borrower for making and administering the loan.

10.1.2 Security. A loan shall be secured as follows:

- (a) A loan shall be secured by the borrower's vested Account balance at the time the loan is made. The loan shall be held as part of the Account that secures the loan, and any payments of principal and interest and any withdrawals on default shall be credited to or charged against such Account. In addition, as a condition to taking the loan, an Employee Participant must agree to have loan repayments deducted from his or her Compensation *or, if the Participant has experienced a Severance from Employment, via ACH debit*, according to the repayment schedule of the loan.
- (b) The Committee may require or accept other collateral in its discretion.

10.1.3 Limits on Loan Amounts. *Except as provided under 10.3*, a loan may be made so long as the aggregate outstanding principal balance of the loan with respect to any Participant does not exceed the lesser of the following at the time the loan is made:

- (a) 50 percent of the Participant's total vested Account in the Plan, reduced by the aggregate balance of other loans outstanding at the time of the loan.
- (b) \$50,000, reduced by the highest aggregate loan balance in the preceding 12 months.

10.1.4 Terms of Loans. *Except as provided otherwise under 10.3*, the Committee shall fix the terms of payment and interest rate for loans under the following rules, treating all persons similarly situated alike:

- (a) The interest rate shall be a reasonable rate fixed by the Committee based on the locally prevailing commercial lending rates at the time for comparable loans.
- (b) Loans must be payable in not more than five years, unless used to acquire the principal residence of the Participant.
- (c) Loans must be amortized by substantially level principal and interest payments made no less often than quarterly over the loan term. Prepayments shall be allowed, but only if the entire loan is prepaid at once.
- (d) A loan to an Employee-Participant shall be *repaid through payroll deduction. Effective June 26, 2019, Participants who have experienced a Severance from Employment may continue to make loan repayments on an outstanding loan through ACH debit in accordance with the Committee's procedures.*
- (e) The loan shall be in default and 10.2 shall apply if the pay assignment required under 10.1.2(a) lapses by Severance from Employment or is canceled.
- (f) If a Participant with one or more outstanding plan loans goes on an unpaid leave to perform service in the uniformed services, the following rules shall apply:
 - (1) No loan repayments shall be required during the period of service, but interest shall accrue, subject to (2).
 - (2) If the Participant provides the Committee with a written notice setting out the Participant's service obligation and a copy of the Participant's orders within 180 days after release from service in the uniformed services, the interest rate during the period of service shall not exceed 6 percent per year.
 - (3) The period of service in the uniformed services shall not be taken into account in determining the maximum loan term and repayments shall resume as scheduled when the period of service ends.
- (g) Participants taking an approved leave of absence from TriMet, without pay, *must continue to make loan payments during the period of leave. Payments outside of payroll shall be made in accordance with the Committee's procedures.*
- (h) If a Participant or Beneficiary applies for a distribution or withdrawal of assets that secure an outstanding loan, the distribution or withdrawal shall, to the extent necessary to maintain adequate security, be made by offsetting a corresponding amount of the loan and accrued interest.

10.2 Default Procedures

If a loan is not repaid when due or otherwise is in default, the following shall apply:

- (a) The Committee shall have the option to declare the entire principal and interest immediately due and payable.
- (b) The Committee may grant the borrower a grace period of up to 90 days to cure any default with respect to the loan.
- (c) The Committee may instruct the Trustee to offset against the Participant's Account the amount of the loan and interest plus any applicable withholding, or foreclose on any other collateral, or both, as provided below:
 - (1) After Severance from Employment: all or part of a Participant's Account may be offset on default.
 - (2) Prior to Severance from Employment: amounts may be offset only against the Participant's Non-elective Employer Contributions and Voluntary Employee Contributions accounts, including any related earnings.

10.3 CARES Act Loan Provisions

10.3.1 CRD-Qualified Participant. A CRD-Qualified Participant is a Participant who has self-certified that one of the following is true:

- (a) the Participant has been diagnosed with COVID-19 through a CDC-approved test;*
- (b) the Participant's spouse or dependent, as defined under Subsection 152 of the Code, has been diagnosed with COVID-19 through a CDC-approved test; or*
- (c) the Participant has experienced adverse financial consequences because the Participant has been quarantined, has been furloughed by TriMet, has had their TriMet work hours reduced, or remains an employee of TriMet but has been unable to work because of a lack of child care due to COVID-19.*

10.3.2 Temporarily Increased Loan Limits for CRD-Qualified Participants. Regarding loans made from April 30, 2020 through September 22, 2020 to CRD-Qualified Participants who are current Employees, such loans may be made so long as the aggregate outstanding principal balance of the loan does not exceed the lesser of the following at the time the loan is made:

- (a) 100 percent of the Participant's total vested Account in the Plan, reduced by the aggregate balance of other loans outstanding at the time of the loan.*
- (b) \$100,000, reduced by the highest aggregate loan balance in the preceding 12 months.*

10.3.3 Other Terms.

(a) For loans initiated from April 30, 2020 through September 22, 2020, CRD-Qualified Participants who are current Employees may refinance existing loans or may take one additional loan in excess of the two-loan limit otherwise imposed by the Plan; provided, however, that no Participant may refinance a loan used to acquire a primary residence.

(b) CRD-Qualified Participants may delay scheduled loan payments due between April 21, 2020 and December 31, 2020. Payments may be delayed for up to one year, and the five-year maximum loan repayment term (or longer terms established for loans related to the purchase of the Participant's primary residence) will be extended accordingly. A CRD-Qualified Participant may delay loan payments only after submitting a written request to the Plan to delay payments, and only with respect to those payments that are scheduled to be paid after submission of the request.

**TRIMET DEFINED CONTRIBUTION
RETIREMENT PLAN FOR
MANAGEMENT AND STAFF EMPLOYEES**

THIRD AMENDMENT

PARTIES

THIS AMENDMENT is adopted by Tri-County Metropolitan Transportation District of Oregon(TriMet).

RECITALS

TriMet established the TriMet Defined Contribution Retirement Plan for Management and Staff Employees (the Plan), effective April 27, 2003.

The Plan was last amended and restated effective January 1, 2013, and subsequently amended two times effective September 1, 2014 and August 9, 2018.

TriMet desires to amend the Plan again in certain respects.

AMENDMENT

The TriMet Defined Contribution Plan for Management and Staff Employees is hereby amended as set forth on the Plan pages attached hereto. The amendments are shown in italic type on the relevant Plan pages, which are incorporated by reference herein and made effective as of the dates indicated below:

4. ARTICLE 4 – CONTRIBUTIONS
 - a. Subsection 4.7 at page 14-14a, effective March 27, 2020.
5. ARTICLE 6 – DISTRIBUTIONS AND WITHDRAWALS
 - a. Added subsection 6.6.5 at page 26a (Elimination of Required Minimum Distributions in 2020), effective March 27, 2020.

6. ARTICLE 10 – LOANS

- a. Subsection 10.1 at pages 31-32, effective March 27, 2020 except as otherwise provided.
- b. Added Subsection 10.3 at pages 33-33a (CARES Act loan provisions), effective April 21, 2020 except as otherwise provided.

TriMet has caused this amendment to be executed by its duly authorized representative as of the date set forth below.

TRI-COUNTY METROPOLITAN
TRANSPORTATION DISTRICT OF OREGON

By _____

Title _____

Date _____

for a Plan Year, contributions will be reduced in the following order before the end of the Plan Year to ensure the total of the contributions for the Participant for the Plan Year do not exceed the maximum annual additions limit.

- (a) First, the Voluntary Employee Contributions will be reduced in whole percentage amounts.
- (b) Second, the Pick-up Contributions will be reduced in whole percentage amounts.
- (c) Third, the Non-elective Employer Contributions will be reduced in whatever amount is necessary to avoid exceeding the maximum annual additions limit.
- (d) Fourth, the Discretionary Non-elective Contributions will be reduced in whatever amount is necessary to avoid exceeding the maximum annual additions limit.

The Committee, TriMet, and all other individuals responsible for administering the Plan have no discretion or authority to alter the method of making adjustments to comply with the maximum annual additions limit. If, notwithstanding this provision, contributions are made to a Participant's Account in excess of the maximum annual additions limit, this provision shall not apply and the excess contribution shall be corrected using a method acceptable to the Internal Revenue Service in published guidance.

4.6.4 Multiple Plans and Related Employers. All defined contribution plans (without regard to whether a plan has been terminated) ever maintained by TriMet (or a predecessor employer within the meaning of the regulations under Code Subsection 415) under which the Participant receives Annual Additions are treated as one defined contribution plan for purposes of applying the limitations under this Subsection 4.6. To the extent that TriMet is ever a member of a group of commonly controlled trades or businesses or of an affiliated service group under the Code, then all employers in such group or groups shall be treated as a single employer for purposes of applying the limitations under this Subsection 4.6.

4.7 Rollover Contributions

4.7.1 Rollover Contributions Generally. An Eligible Employee (including an Option 1 Employee, but excluding a Senior Manager (as defined in section 3.1.3) who has not made an election to participate under section 3.1.2) may elect to roll over an Eligible Rollover Distribution from an individual retirement account or annuity (IRA), another employer's qualified retirement plan, a 401(k) plan, a 403(b) tax sheltered

annuity, or from an eligible section 457(b) deferred compensation plan sponsored by a state or local governmental employer. If the Plan accepts the rollover, the rollover amount will be added to the Participant's Account, but will be separately accounted for under the Plan. Rollover Contributions are always 100 percent vested. The Plan will accept only cash rollovers in the form of a check made payable to the Plan's trustee. The amount transferred to the Plan under this subsection shall not exceed the portion of the distribution that is includible in gross income, determined without regard to Code Section 402(c)(1). The Committee or its delegate will establish a process for determining whether a rollover satisfies the requirements to be a Rollover Contribution under this section and applicable law. The Plan reserves the right to refuse any rollover contribution that, in the judgment of the Committee or its delegate, would jeopardize the Plan's qualified status.

4.7.2 Coronavirus-Related Distributions Treated as Rollovers. An Eligible Employee (including an Option 1 Employee, but excluding a Senior Manager (as defined in section 3.1.3) who has not made an election to participate under section 3.1.2) who received a Coronavirus-Related Distribution (CRD) pursuant to the requirements of Subsection 2202(a) of the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 shall be permitted to repay any portion of a CRD to this Plan, provided that the repayment or repayments are made by no later than the end of the three-year period beginning on the date the CRD was received. The repayment to the Plan shall be treated as an indirect rollover, and the Committee may establish procedures for the acceptance of CRD rollovers.

6.6.5 Elimination of Required Minimum Distributions for 2020 Calendar Year.
Notwithstanding anything in this Subsection 6.6 to the contrary, Required Minimum Distributions described under this Subsection 6.6 that would otherwise be made in the form of an automated lump-sum distribution during the 2020 calendar year shall not be made, pursuant to Subsection 2203 of the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act of 2020, unless the affected Participant makes an affirmative distribution election for 2020. Regular monthly distributions to Participants and lump-sum distributions requested by Participants that would satisfy the Required Minimum Distribution requirements shall still be made in 2020 unless the Participant requests suspension of the monthly withdrawals or elects to return the Required Minimum Distribution to the Plan by August 31, 2020.

ARTICLE 10 LOANS

10.1 Availability

The Committee may direct the Trustee to lend money to a Participant *who is an Employee*, as follows:

10.1.1 General Rules. The Committee shall make loans available to *Employee-Participants* on a reasonably equivalent basis as follows:

- (a) The borrower must establish an intention and a reasonably certain capacity, and must enter into a legally enforceable agreement, to repay the loan and interest when due.
- (b) A loan shall be available for not less than \$1,000 and not more than the limits specified in Subsection 10.1.3.
- (c) *Except as provided under 10.3.3(a)*, no more than two loans may be outstanding for a Participant at one time.
- (d) The Committee shall establish rules for loans, which may include restrictions on timing, duration, and frequency of loans.
- (e) Reasonable fees may be charged to the borrower for making and administering the loan.

10.1.2 Security. A loan shall be secured as follows:

- (a) A loan shall be secured by the borrower's vested Account balance at the time the loan is made. The loan shall be held as part of the Account that secures the loan, and any payments of principal and interest and any withdrawals on default shall be credited to or charged against such Account. In addition, as a condition to taking the loan, an Employee Participant must agree to have loan repayments deducted from his or her Compensation *or, if the Participant has experienced a Severance from Employment, via ACH debit*, according to the repayment schedule of the loan.
- (b) The Committee may require or accept other collateral in its discretion.

10.1.3 Limits on Loan Amounts. *Except as provided under 10.3*, a loan may be made so long as the aggregate outstanding principal balance of the loan with respect to any Participant does not exceed the lesser of the following at the time the loan is made:

- a) 50 percent of the Participant's total vested Account in the Plan, reduced by the aggregate balance of other loans outstanding at the time of the loan.
- (b) \$50,000, reduced by the highest aggregate loan balance in the preceding 12 months.

10.1.4 Terms of Loans. *Except as provided otherwise under 10.3, the Committee shall fix the terms of payment and interest rate for loans under the following rules, treating all persons similarly situated alike:*

- (a) The interest rate shall be a reasonable rate fixed by the Committee based on the locally prevailing commercial lending rates at the time for comparable loans.
- (b) Loans must be payable in not more than five years, unless used to acquire the principal residence of the Participant.
- (c) Loans must be amortized by substantially level principal and interest payments made no less often than quarterly over the loan term. Prepayments shall be allowed, but only if the entire loan is prepaid at once.
- (d) A loan to an Employee-Participant shall be *repaid through payroll deduction. Effective June 26, 2019, Participants who have experienced a Severance from Employment may continue to make loan repayments on an outstanding loan through ACH debit in accordance with the Committee's procedures.*
- (e) The loan shall be in default and Subsection 10.2 shall apply if the pay assignment required under Subsection 10.1.2(a) lapses by Severance from Employment or is canceled.
- (f) If a Participant with one or more outstanding plan loans goes on unpaid military leave, such Participant's loan payments will be suspended under the Plan as permitted under Code Subsection 414(u)(4).
- (g) Participants taking an approved leave of absence from TriMet, without pay, *must continue to make loan payments during the period of the leave. Payments outside of payroll shall be made in accordance with the Committee's procedures.*
- (h) If a Participant or Beneficiary applies for a distribution or withdrawal of assets that secure an outstanding loan, the distribution or withdrawal shall, to the extent necessary to maintain adequate security, be made by offsetting a corresponding amount of the loan and accrued interest.

10.2 Default Procedures

If a loan is not repaid when due or otherwise is in default, the following shall apply:

- (a) The Committee shall have the option to declare the entire principal and interest immediately due and payable.
- (b) The Committee may grant the borrower a grace period of up to 90 days to cure any default with respect to the loan.
- (c) The Committee may instruct the Trustee to offset against the Participant's Account the amount of the loan and interest plus any applicable withholding, or foreclose on any other collateral, or both, as provided below:
 - (1) After Severance from Employment: all or part of a Participant's Account may be offset on default.
 - (2) Prior to Severance from Employment: amounts may be offset only against the Participant's Non-elective Employer Contributions and Voluntary Employee Contributions accounts, including any related earnings.

10.3 CARES Act Loan Provisions

10.3.1 CRD-Qualified Participant. A CRD-Qualified Participant is a Participant who has self-certified that one of the following is true:

- (a) the Participant has been diagnosed with COVID-19 through a CDC-approved test;*
- (b) the Participant's spouse or dependent, as defined under Subsection 152 of the Code, has been diagnosed with COVID-19 through a CDC-approved test; or*
- (c) the Participant has experienced adverse financial consequences because the Participant has been quarantined, has been furloughed by TriMet, has had their TriMet work hours reduced, or remains an employee of TriMet but has been unable to work because of a lack of child care due to COVID-19.*

10.3.2 Temporarily Increased Loan Limits for CRD-Qualified Participants. Regarding loans made from April 30, 2020 through September 22, 2020 to CRD-Qualified Participants who are current Employees, such loans may be made so long as the aggregate outstanding principal balance of the loan does not exceed the lesser of the following at the time the loan is made:

- (a) 100 percent of the Participant's total vested Account in the Plan, reduced by the aggregate balance of other loans outstanding at the time of the loan.*

(b) \$100,000, reduced by the highest aggregate loan balance in the preceding 12 months.

10.3.3 Other Terms.

(a) For loans initiated from April 30, 2020 through September 22, 2020, CRD-Qualified Participants who are current Employees may refinance existing loans or may take one additional loan in excess of the two-loan limit otherwise imposed by the Plan; provided, however, that no Participant may refinance a loan used to acquire a primary residence.

(b) CRD-Qualified Participants may delay scheduled loan payments due between April 21, 2020 and December 31, 2020. Payments may be delayed for up to one year, and the five-year maximum loan repayment term (or longer terms established for loans related to the purchase of the Participant's primary residence) will be extended accordingly. A CRD-Qualified Participant may delay loan payments only after submitting a written request to the Plan to delay payments, and only with respect to those payments that are scheduled to be paid after submission of the request.

RESOLUTION NO. 20-09-38

RESOLUTION NO. NO. 20-09-38 OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) TO REVISE TRIMET'S DEFINED CONTRIBUTION PLANS FOR ITS UNION-REPRESENTED AND MANAGEMENT AND STAFF EMPLOYEES TO REFLECT "CARES ACT" AMENDMENTS

WHEREAS, TriMet has authority under ORS 267.200 to sponsor and maintain retirement plans for the benefit of its employees; and

WHEREAS, in addition to other retirement and benefit plans, TriMet currently sponsors and maintains the TriMet Defined Contribution Retirement Plan for Management and Staff Employees and the TriMet Defined Contribution Retirement Plan for Union-Represented Employees (Plans); and

WHEREAS, the Coronavirus Aid, Relief and Economic Security Act of 2020 (CARES Act) allowed TriMet to incorporate new benefits and features to the Plans; and

WHEREAS, the TriMet Board of Directors (Board) has decided to revise the Plans in certain respects in accordance with the CARES Act and administrative practice for the Plans;

NOW, THEREFORE, BE IT RESOLVED:

1. That the TriMet Defined Contribution Retirement Plan for Union-Represented Employees be amended in accordance with the recommendations of the Plan Committee, in substantially the same form as the draft amendment attached hereto as Exhibit A.
2. That the TriMet Defined Contribution Retirement Plan for Management and Staff Employees be amended in accordance with the recommendations of the Plan Committee, in substantially the same form as the draft amendment attached hereto as Exhibit B.
3. That the amendments to the Plans shall conform to applicable law.
4. That the General Manager or his designee is authorized to direct the Committee administrators of the Plans to adopt the amendments to the Plans as described herein.

Dated: September 23, 2020

Attest:

Recording Secretary

Presiding Officer

Approved as to Legal Sufficiency

Gregory E. Skillman

Legal Department