

Date: August 8, 2012

To: Board of Directors

From: Neil McFarlane

Subject: **RESOLUTION 12-08-74 OF THE TRI-COUNTY TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING AN INCREASED CHANGE ORDER ALLOWANCE TO THE CONTRACT WITH I & E CONSTRUCTION, INC. FOR THE BARBUR BOULEVARD TRANSIT CENTER STORMWATER RETROFIT PROJECT**

1. Issue of Purpose of the Item

The purpose of this item is to request that the TriMet Board of Directors (“Board”) approve a resolution authorizing an increased change order allowance to the contract with I&E Construction, Inc. for the Barbur Boulevard Transit Center Stormwater Retrofit Project (“Project”).

2. Reason for Board Action

Board approval is required for change orders for a contract if the cumulative amount of the change orders exceeds the change order allowance previously approved by the Board.

3. Background

In December 2011, the Board approved Resolution 11-12-88, authorizing a contract with I&E Construction in the amount of \$587,528, plus a change order allowance of \$80,000, for a total contract amount of \$667,528, in order to retrofit the Barbur Boulevard Transit Center parking area to manage the stormwater runoff and provide for water quality treatment and mitigation of the stormwater flows. This work was being done as part of the Oregon Department of Transportation (“ODOT”) Stormwater Retrofit Program (“SRP”), through which ODOT committed funds towards stand-alone stormwater retrofit projects over fiscal years 2011 through 2014. The TriMet Barbur Boulevard Transit Center parking lot is owned by ODOT and is leased to TriMet. TriMet, the City of Portland (through the Bureau of Environmental Services (“BES”)), and ODOT entered into an Intergovernmental Agreement (“IGA”) under which ODOT and BES agreed to fund the work.

The project is now approximately 40 percent complete. I&E Construction has performed well and is on schedule. However, because the majority of the Project is constructing below grade stormwater treatment facilities and tying new stormwater pipes into an existing stormwater system, I&E Construction has encountered areas of conflict with the current engineering design documents, existing underground utilities and unforeseen existing conditions. The approved and potential changes are due mostly to these conflicts. Therefore, this resolution increases the change order allowance by an additional \$95,000, from

\$80,000 to \$175,000. With the additional change order allowance, the new total contract value will be \$762,528 which is still less than BES's original independent cost estimate of \$770,943.

Under the IGA between TriMet, the City of Portland and ODOT, ODOT agreed to reimburse TriMet the cost paid to I&E to perform the work. TriMet is providing up to \$50,000 of in-kind services by managing the Project construction, including contract administration and construction inspection. Any costs related to the increased change order allowance will be borne by ODOT and BES. TriMet's contribution to the Project will remain limited to its in-kind contribution.

4. Options.

Because the Project is approximately 40 percent completed, TriMet's options are limited. It would be inefficient and unrealistic to procure a new contractor to perform the remainder of the construction work, and I&E Construction has performed well thus far. The additional costs are due to unforeseen conditions, and will be paid completely by ODOT and BES. Therefore, approval of the resolution is the only option recommended.

5. Recommendation.

The General Manager recommends that the Board approve the Resolution.

RESOLUTION 12-08-74

RESOLUTION OF THE TRI-COUNTY TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING AN INCREASED CHANGE ORDER ALLOWANCE FOR THE CONSTRUCTION CONTRACT WITH I & E CONSTRUCTION, INC. FOR THE BARBUR BOULEVARD TRANSIT CENTER STORMWATER RETROFIT PROJECT

WHEREAS, TriMet has authority under ORS 267.200 to enter into a contract including a change order allowance with I&E Construction, Inc. for the Barbur Boulevard Transit Center Stormwater Retrofit Project (“Contract”); and

WHEREAS, the total amount of change orders under the Contract shall exceed the change order allowance previously approved by the Board resolution authorizing Contract award; and

WHEREAS, the TriMet Board of Directors (“Board”), by resolution dated November 25, 2009, adopted a Statement of Policies requiring the Board to approve change orders for a contract if the cumulative amount of the change orders exceeds the change order allowance previously approved by the Board resolution authorizing contract award;

NOW, THEREFORE, BE IT RESOLVED:

1. That the Contract change orders shall be in conformance with applicable laws.
2. That the General Manager or his designee is authorized to execute change orders to the Contract in a cumulative amount not to exceed \$175,000.

Dated: August 8, 2012

Presiding Officer

Attest:

Recording Secretary

Approved as to Legal Sufficiency

Legal Department