

# **SPECIAL SESSION**

# AGENDA

MILWAUKIE CITY COUNCIL  
MAY 29, 2012

MILWAUKIE CITY HALL  
10722 SE Main Street

SPECIAL SESSION

**SPECIAL SESSION – 7:00 p.m.**

- |  | <b>Page<br/>No.</b> |
|--|---------------------|
| <b>1. CALL TO ORDER</b><br><b>Pledge of Allegiance</b>   |                     |
| <b>2. Settlement Agreement with TriMet – Portland-Milwaukie Light Rail –<br/>Resolution</b><br><b>Staff: City Manager Bill Monahan</b> | <b>1</b>            |
| <b>3. ADJOURNMENT</b>  |                     |

## Public Information

- **Executive Session:** The Milwaukie City Council may meet in executive session immediately following adjournment of the regular session pursuant to ORS 192.660(2).
- All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions as provided by ORS 192.660(3) but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.
- The Council requests that all pagers and cell phones be either set on silent mode or turned off during the meeting.



**To: Mayor and City Council**

**From: Bill Monahan, City Manager**

**Subject: Settlement Agreement with TriMet – Portland-Milwaukie Light Rail**

**Date: May 29, 2012**

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### **ACTION REQUESTED**

Approve a settlement agreement with TriMet regarding the 2008 Intergovernmental Agreement (IGA) between the City and TriMet, that requires the City to pay \$5 million to install the Portland-Milwaukie Light Rail. The IGA required the City to pay the full \$5,000,000 obligation within 90 days of Federal Transit Authority (FTA) approval of a Full Funding Grant Agreement. The settlement agreement allows the City to make payments over a nineteen year period and also allows the city to get credit for certain non-monetary concessions.

### **HISTORY OF PRIOR ACTIONS AND DISCUSSIONS**

**March 2012:** City Council adopted 2012 goals including “Identify where the \$5 million for light rail comes from.”

**September 2011:** City Council discussed options based upon input from the staff and City Attorney.

**April 2011:** The City Council established its annual goals for 2011 and included a goal to “Identify where the \$5 million for light rail comes from by August, 2011.”

**December 2008:** The city and TriMet entered into an Intergovernmental Funding Agreement obligating the City to pay \$5 million for its share of TriMet’s installation of the Portland-Milwaukie Light Rail Transit Project.

### **BACKGROUND**

In December 2008, the City and TriMet entered into an Intergovernmental Funding Agreement obligating the City to pay \$5 million for its share of TriMet’s installation of the

Portland-Milwaukie Light Rail Transit Project. The City's payment obligation was conditioned on TriMet's ability to enter into a full funding agreement with the FTA. TriMet has entered into that agreement with the FTA.

The City Council has discussed the obligation on numerous occasions, and has reached the conclusion that it cannot meet its obligations within 90 days absent significant cuts to staff and City services. If the City does not enter into a settlement agreement with TriMet, the City will be in default under the terms of the IGA if it fails to make payment at the required time.

At the request of the City Council, the City and TriMet staff explored ways for the City to meet its obligations while maintaining current levels of staff and services. Terms were discussed that would allow the needs of the City and TriMet, to both be met.

Effort was made to reduce the out of pocket expenditure of the City. Staff considered ways to credit the City for permit processing and other costs related to the processing of approvals to build the portion of the system that is within Milwaukie city limits. The terms negotiated allow the City to make annual payments into 2031, to lessen the impact on existing programs and services. During this period of time, the City projects that additional revenue from property taxes will result from the development of the light rail system.

## **FISCAL IMPACTS**

The IGA created a \$5 million obligation of the City. How, and when, the \$5 million is contributed will determine the fiscal impact. The payment terms reached between the City and TriMet allow for payment over the next nineteen year period, ending July 1, 2031. City budgets over the next nineteen years will need to address the payments due within each budget cycle.

## **WORK LOAD IMPACTS**

The payment of the obligation will impact the amount of funding available for other City programs and services. If an alternative revenue source is not identified, or if the economic situation does not improve, there may be the need to reduce programs and services. The exact levels of the cuts are dependent on a variety of economic factors, and the level of City resources as compared to obligations under the payment schedule.

## **ALTERNATIVES**

During the review of the options available to the City, payment options were discussed. The alternative to a payment schedule is a payment of the full obligation within 90 days of the FTA approval of the Full Funding Grant Agreement. An action that remains available to the City is prepayment of the debt to TriMet after arrangement is made for alternative financing.

**ATTACHMENTS**

1. 2008 Intergovernmental Agreement
2. Settlement Agreement with TriMet
3. Resolution Approving a Settlement Agreement With TriMet, With Exhibit A (a payment schedule)



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**RECORD COPY****INTERGOVERNMENTAL FUNDING AGREEMENT  
BETWEEN TRIMET AND THE CITY OF MILWAUKIE FOR THE  
SOUTH CORRIDOR PHASE II PORTLAND TO MILWAUKIE  
LIGHT RAIL PROJECT**

This intergovernmental agreement ("Agreement"), dated Dec. 16, 2008, is made and entered into by and between the City of Milwaukie ("Milwaukie") and the Tri-County Metropolitan Transportation District of Oregon ("TriMet") (collectively the "Parties").

**RECITALS**

1. TriMet and Milwaukie are authorized to enter into this Agreement with each other pursuant to the provisions of ORS 190.
2. TriMet owns and operates the public mass transit system serving the Portland, Oregon metropolitan region, which includes an existing light rail system composed of segments commonly known as the Eastside/Banfield, Westside/Hillsboro, Airport, and Interstate lines. TriMet also is currently constructing the South Corridor Light Rail Project, consisting of the I-205 Segment and the Portland Mall Segment.
3. TriMet and Milwaukie have a joint interest in serving Milwaukie, north Clackamas County and the Portland Metro region with high quality, convenient public transit.
4. TriMet plans and proposes to construct the South Corridor Phase II Portland to Milwaukie Light Rail Project ("Project"). The Project will provide a reliable, high frequency transportation option for Milwaukie and Clackamas County commuters, and will benefit north Clackamas County and City of Milwaukie residents and workers by providing car-free linkages to multiple destinations in the TriMet system. The Project also offers Milwaukie a transportation investment that can help catalyze Milwaukie's downtown revitalization as described in local and regional land use plans.
5. On May 9, 2008, the Federal Transit Administration ("FTA") issued a Supplemental Draft Environmental Impact Statement ("SDEIS") on the Project, in compliance with FTA and National Environmental Protection Act ("NEPA") requirements.
6. On July 15, 2008, the City of Milwaukie Council adopted the Locally Preferred Alternative
7. On July 24, 2008, Metro adopted the Locally Preferred Alternative ("LPA") and the Land Use Final Order ("LUFO") for the Project.
8. The Parties anticipate that TriMet will be the entity responsible for entering into a Full Funding Grant Agreement ("FFGA") with the FTA as the vehicle through which the Project will receive its federal funding component. As the grant recipient, TriMet will be the entity responsible for performing, or contracting for, the design services and construction work.

9. In addition to the FTA, TriMet is in the process of obtaining funding contributions for the Project from local partners, including the City of Milwaukie, the City of Portland, Metro and the State of Oregon.
10. On June 17, 2008, the Parties entered into a Memorandum of Understanding For Transit Improvements in Milwaukie from 2008-2018 ("MOU"). The MOU anticipated that the Parties would enter into a series of intergovernmental agreements over ten years, including a funding agreement for the Project by December 31, 2008.
11. Milwaukie agrees to help fund the Project by contributing \$5 million toward the Project.

**NOW, therefore,** in consideration of the mutual promises set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

### **AGREEMENT**

#### **MILWAUKIE OBLIGATIONS**

1. Milwaukie agrees to contribute \$5,000,000 to TriMet for the Project.
2. Milwaukie's contribution of \$5,000,000 shall be paid to TriMet within 90 days of FTA approval of the Full Funding Grant Agreement for the Project, which approval is anticipated in or around June 2012.

#### **TRIMET OBLIGATIONS**

1. TriMet agrees that it is fully committed to constructing and operating the Project upon entering into a Full Funding Grant Agreement for the Project with FTA.
2. TriMet agrees to apply Milwaukie's \$5,000,000 in contributed funds to the Project, to be expended for mitigation of the effects of the Project on residences and schools in the City of Milwaukie as defined in Record of Decision, prior to expenditure for other Project costs.
3. TriMet agrees to comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement.

#### **GENERAL PROVISIONS**

1. Each of the Parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee or contractor of one Party shall be deemed to be a representative, agent, employee or contractor of the other Party for any purpose, except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the Parties any relationship of principal and agent, partnership,

joint venture or any similar relationship, and each Party hereby specifically disclaims any such relationship.

Both Parties agree to in good faith enter into additional agreements as needed for the Project, potentially to include:

- a. Engineering Services Agreement;
  - b. Final Design and Construction Agreement;
  - c. Right of Way Agreement;
  - d. Continuing Control Agreement;
  - e. South Precinct Agreement;
  - f. Parking Agreement; and
  - g. Maintenance Agreement.
2. This Agreement may be terminated at any time by mutual written consent of both Parties.
  3. Milwaukie may terminate this Agreement upon 30 days written notice to TriMet, but only if TriMet has not received FTA approval of a Full Funding Grant Agreement for the Project by June 30, 2014.
  4. The Parties acknowledge and agree that each Party, the federal government, and their duly authorized representatives shall have access to each Party's books, documents, papers, and records which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of three years after final payment. Copies of applicable records shall be made available upon request. The cost of such inspection shall be borne by the inspecting Party.
  5. Milwaukie and TriMet are the only Parties to this Agreement and are the only Parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are expressly described as intended beneficiaries of the terms of this Agreement.
  6. This Agreement constitutes the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.
  7. The benefits conferred by this Agreement, and the obligations assumed hereunder, shall inure to the benefit of and bind the successors of the Parties. The rights and obligations of each Party under this Agreement may not be assigned in whole or in part without the prior written consent of the other Party.

8. This Agreement shall be construed according to the laws of the State of Oregon. TriMet and Milwaukie shall negotiate in good faith to resolve any dispute arising under this Agreement. Should any dispute arise between the parties concerning this agreement that is not resolved by mutual agreement, it is agreed that it will be submitted to mediated negotiation prior to any party commencing litigation. In such an event, the parties to this agreement agree to participate in good faith in a non-binding mediation process. The mediation shall take place in Portland, Oregon. The mediator shall be selected by mutual agreement of the parties, but in the absence of such agreement each party shall select a temporary mediator and those mediators shall jointly select the permanent mediator. The mediator's fees and costs shall be borne equally by the parties. In the event mediation is unsuccessful, the Parties are free to pursue any legal remedies that may be available. Any litigation between Milwaukie and TriMet arising under this Agreement or out of work performed pursuant to this Agreement shall occur, if in the state courts, in the Multnomah County Circuit Court, and if in the federal courts, in the United States District Court for the District of Oregon located in Portland, Oregon.
9. If any clause, sentence, or portion of the terms and conditions of this Agreement becomes illegal, null, or void for any reason, the remaining portions will remain in full force and effect to the fullest extent permitted by law. All provisions concerning indemnity survive the termination of this Agreement for any cause.
10. Any titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.
11. Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.
12. Within the limits of the Oregon Constitution and the Oregon Tort Claims Act, codified at ORS 30.260 through 30.300, each of the Parties shall hold harmless, indemnify and defend the other and its directors, officers, employees and agents from and against all claims, demands, penalties, and causes of action of any kind or character relating to or arising from this Agreement (including the cost of defense thereof, including attorney fees) in favor of any person on account of personal injury, death, damage to property, or violation of law, which arises out of, or results from, the negligent acts or omissions of the indemnitor, its officers, employees, or agents.
13. All routine correspondence and communication regarding this Agreement shall be between the following representatives of the Parties:

TriMet:                      David Unsworth  
   TriMet Project Planning

710 NE Holladay Street  
Portland, OR 97232  
Telephone: (503) 962-2147  
Facsimile: (503) 962-2281

With copy to: TriMet Legal Department  
710 NE Holladay Street  
Portland, OR 97232  
Attn: Lance Erz  
Telephone: (503) 962-2108  
Facsimile: (503) 962-2299

City of Milwaukie: Kenny Asher  
Director of Community Development and Public Works  
City of Milwaukie  
6101 SE Johnson Creek Boulevard  
Milwaukie, OR 97206  
Tel 503-786-7654  
Fax 503-774-8236

14. Either Party may change the foregoing notice address by giving prior written notice thereof to the other Party at its notice address.

15. Each party represents that it has the authority to enter into this Agreement on its behalf and the individual signatory for a party represents that it has been authorized by that party to execute and deliver this Agreement.

**TRI-COUNTY METROPOLITAN  
TRANSPORTATION DISTRICT OF  
OREGON**

By Fred Hansen  
Fred Hansen, General Manager

Date 12/23/08

**APPROVED AS FORM**

By Lance Erz  
Lance Erz, TriMet Legal Department

Date 12/15/08

**CITY OF MILWAUKIE**

By James Bernard  
James Bernard, Mayor

Date 12/29/08

**APPROVED AS FORM**

By [Signature]  
Milwaukie City Attorney

Date 12/29/08

Attachment 2

**SETTLEMENT AGREEMENT**

**BETWEEN:** The City of Milwaukie, Oregon, a municipal corporation (“City”)

**AND:** TriMet, a municipal corporation (“TriMet”)

**CONCERNING:** Agreement on payment of City funding share, permit fees and development charges, and other obligations associated with the Portland-Milwaukie Light Rail Transit Project, (“Settlement Agreement”)

**DATED:** May \_\_\_\_\_, 2012 (“Effective Date”)

**RECITALS**

**WHEREAS** on December 16, 2008, TriMet and the City (the “Parties”) entered into an Intergovernmental Funding Agreement ( “Funding IGA”) obligating the City to pay Five Million and No/100 (\$5,000,000.00) dollars (“Funding Share”) for its share of TriMet’s installation of the Portland-Milwaukie Light Rail Transit Project (the “Project”);

**WHEREAS**, under paragraph 2 of the section entitled “Milwaukie Obligations” in the Funding IGA, City is required to pay its Funding Share to TriMet in full within 90 days of FTA approval of the Full Funding Grant Agreement (“FFGA”) for the Project (“Due Date”);

**WHEREAS**, The City agrees it is legally obligated to fulfill its obligations in the Funding IGA, but is unable to maintain its current service levels to its citizens if it were to provide the full amount of its Funding Share to TriMet by the Due Date;

**WHEREAS** the City code requires payment of certain land use, construction, filing, review, inspections, other associated fees, and system development charges to install the Project within the City (“Permit Fees and Charges”);

**WHEREAS**, ORS 30.395 provides authority for the settlement of claims and the appropriation of money in payment of claims against and between municipal corporations; and

**WHEREAS**, the Parties desire to reach a settlement that permits the City to pay TriMet is Funding Share in a manner that maintains city service levels and provides TriMet certainty with regard to Permit Fees and Charges, and further streamlines the process for payment of obligations between the Parties.

## SETTLEMENT AGREEMENT

NOW, THEREFORE, based on the foregoing and in consideration of the mutual promises and covenants contained herein, the adequacy of which is hereby acknowledged, the parties agree as follows:

**1. Scope.** The provisions of this Settlement Agreement, made pursuant to ORS 30.395(1), amend the Funding IGA by replacing in its entirety paragraph 2 of the section entitled Milwaukie Obligations in the Funding IGA.

### **2. Consideration for Settlement.**

**2.1 Payment of Permit Fees and Charges.** The City agrees that under its code the total amount of Permit Fees and Charges for the Project will be exactly Nine Hundred Eighty-Nine Thousand Nine Hundred One and No/100 (\$989,901.00) dollars, as detailed in Exhibit A. The City agrees to pay this amount of Permit Fees and Charges through inter-fund transfers on behalf of TriMet and TriMet agrees that such payments by the City shall be part of the City's payment of its Funding Share.

**2.1.1 No Added Permit Fees and Charges.** In the event the City determines that additional Permit Fees or Charges beyond those shown in Exhibit A are required, the City may reallocate the amounts shown in Exhibit A to cover such additional fees or charges, but in no event shall the sum of Permit Fees and Charges exceed Nine Hundred Eighty-Nine Thousand Nine Hundred One and No/100 (\$989,901.00) dollars as provided for in Section 2.1.

**2.1.2 Payment Transaction.** The City shall document its payment of the Nine Hundred Eighty-Nine Thousand Nine Hundred One and No/100 (\$989,901.00) dollars described in Section 2.1 above in a manner that will qualify as a local match under Federal Transit Administration (the "FTA") regulations as set forth in Section 3, below.

**2.1.3 Reimbursement of Permit Fees and Charges Previously Paid by TriMet.** The City further agrees that as of the date on which this Settlement Agreement is executed TriMet has paid a total of \$XXX in Permit Fees and Charges. The City agrees to reimburse TriMet for these payments as part of payment due to TriMet under Section 2.2, below.

**2.2 Initial Payment to TriMet.** On or before ninety (90) days from the date on which the FTA executes the Full Funding Grant Agreement for the Project, the City will convey to TriMet Three Hundred Sixty Thousand Ninety-Nine and No/100 (\$360,099.00) dollars.

**2.2.1** In addition, by the date described in Section 2.1 the City will also convey to TriMet \$XXXXX as reimbursement for Permit Fees and Charges paid by TriMet, as set forth in subsection 2.1.3.

**2.3 Balance of Payments by City to TriMet.** The primary principal obligation of Five Million and No/100 (\$5,000,000.00) dollars of the City after application of the payments in Sections 2.1 and 2.2 above will result in the City owing TriMet a principal amount of Three Million Six Hundred Fifty Thousand and No/100 (\$3,650,000.00) dollars, said principal amount to be paid to TriMet by the City in annual installments as follows: Beginning on July 1, 2013, and annually thereafter until paid in full on July 1, 2031, the City shall make payments to TriMet of the remaining total principal amount plus interest at the rate of Five Percent (5%) in accordance with the payment schedule attached hereto as Exhibit B.

**3. Permit and System Development Fee Documentation.** The City shall prepare and provide to TriMet standard documentation for any and all Permit Fees and Charges as they are issued or incurred. Such documentation shall indicate the cost of each charge or permit issued and shall state *“Paid by City pursuant to Section 2.1 of the Settlement Agreement.”* The City shall also provide such additional documentation of payment of such Permit Fees and Charges as TriMet may reasonably request to comply with FTA and audit requirements.

**4. Appropriation of Funds.** As a Settlement Agreement under ORS 30.395(1), the City shall appropriate funds as required to fulfill its obligations to make annual payments to TriMet under subsection 2.3. The Parties may utilize the provisions of ORS 30.395(2) and ORS 30.295 to satisfy the liabilities herein.

**5. Remedies for Breach.** The parties may remedy any material breach under this Settlement Agreement in accordance with Oregon law. In the event of a breach for nonpayment when due of any amounts required by Section 2.2 or 2.3, interest will continue to accrue on the overdue principal and interest amounts at an interest rate of five (5) percent per annum until paid. In the event of a second or subsequent nonpayment when due of any principal or interest amounts required by Section 2.2 or 2.3, time being of the essence, TriMet may declare the entire principal sum required by Section 2.2 and 2.3 plus any interest payments then unpaid immediately due and payable.

**6. Agreement Made With Advice of Counsel.** The Parties have been represented and advised by independent counsel of their own choice, or have been given the opportunity to be represented and advised by independent counsel, throughout all negotiations that preceded the execution of this Settlement Agreement, and with respect to the execution of this Settlement Agreement.

**7. No Other Representations.** The Parties acknowledge that no other party, nor agent, nor attorney of any other party, has made any promise, representation or warranty, express or implied, not contained in this Settlement Agreement concerning the subject matter of this Settlement Agreement to induce this Settlement Agreement, and the Parties acknowledge that they have not executed this Settlement Agreement in reliance upon any such promise, representation or warranty not contained in this Settlement Agreement.

**8. No Prepayment Penalty.** The City may prepay the total principal plus accrued interest then owing under subsection 2.3 at any time without penalty and TriMet shall accept

such prepayment in full satisfaction of the total principal plus accrued interest then owing.

**9. Severability.** If any provision of this Settlement Agreement shall be invalid or unenforceable in any respect for any reason, the validity and enforceability of the remaining provisions of this Settlement Agreement shall not be in any way impaired.

**10. Resolution of All Controversies.** This Agreement resolves and releases all disputes between the Parties arising from and related to payment of the City's \$5 million obligation to TriMet and TriMet's payment of Permit Fees and Charges to the City.

**11. Counterparts.** This Settlement Agreement may be executed in counterparts, each of which, when taken together, shall constitute fully executed originals. Facsimile and e-mail (scanned) signatures shall operate as original signatures with respect to this Settlement Agreement.

**CITY**

**TRIMET**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

APPROVED AS TO FORM

APPROVED AS TO FORM

\_\_\_\_\_  
City Attorney for Milwaukie

\_\_\_\_\_  
Attorney for TriMet

Exhibit A

| PORTLAND / MILWAUKIE LIGHT RAIL PERMIT FEE & CHARGES ESTIMATE                           |                      |                     |                      |                      |
|---|----------------------|---------------------|----------------------|----------------------|
| Description   | Engineering Fee      | Planning Fee        | Building Fee         | Sub-Total            |
| Planning Fees [CSUs, PLAs, Variances etc.]  |                      | \$ 27,000.00        |                      | \$ 27,000.00         |
| Planning Review [Signs, Building & Demolition Permits]                                  |                      | \$ 10,750.00        |                      | \$ 10,750.00         |
| Elevated Structures [\$15M]   |                      |                     | \$ 120,000.00        | \$ 120,000.00        |
| Retaining Walls [\$1.3M]  |                      |                     | \$ 13,000.00         | \$ 13,000.00         |
| Grading [200,000 Cu. Yds]   |                      |                     | \$ 6,000.00          | \$ 6,000.00          |
| Miscellaneous Structures [\$1M]   |                      |                     | \$ 9,243.00          | \$ 9,243.00          |
| Demolitions [80,000 sf]   |                      |                     | \$ 5,000.00          | \$ 5,000.00          |
| Miscellaneous utility reconnections / relocations 24 +/-properties to change connection |                      |                     | \$ 2,975.00          | \$ 2,975.00          |
| Erosion Control [15 acres]  | \$ 2,500.00          |                     |                      | \$ 2,500.00          |
| Right of Way plan review and inspections [\$12M]  | \$ 660,000.00        |                     |                      | \$ 660,000.00        |
| Impervious Surface SDC [52 ESU]   | \$ 59,200.00         |                     |                      | \$ 59,200.00         |
| Wastewater SDC [1 EDU for Park Ave Station]   | \$ 893.00            |                     |                      | \$ 893.00            |
| Water SDC & Connections [20 services for irrigation and maintenance]                    | \$ 73,340.00         |                     |                      | \$ 73,340.00         |
| <b>TOTAL</b>  | <b>\$ 795,933.00</b> | <b>\$ 37,750.00</b> | <b>\$ 156,218.00</b> | <b>\$ 989,901.00</b> |

Exhibit B

Annual Installment Schedule

|          | Principal          | Interest           | Total              | Balance     |
|----------|--------------------|--------------------|--------------------|-------------|
| 7/1/2012 |                    |                    |                    | \$3,650,000 |
| 7/1/2013 | 9,500              | 182,500            | 192,000            | 3,640,500   |
| 7/1/2014 | 19,500             | 182,025            | 201,525            | 3,621,000   |
| 7/1/2015 | 29,500             | 181,050            | 210,550            | 3,591,500   |
| 7/1/2016 | 39,500             | 179,575            | 219,075            | 3,552,000   |
| 7/1/2017 | 130,000            | 177,600            | 307,600            | 3,422,000   |
| 7/1/2018 | 146,500            | 171,100            | 317,600            | 3,275,500   |
| 7/1/2019 | 161,500            | 163,775            | 325,275            | 3,114,000   |
| 7/1/2020 | 176,500            | 155,700            | 332,200            | 2,937,500   |
| 7/1/2021 | 191,500            | 146,875            | 338,375            | 2,746,000   |
| 7/1/2022 | 206,500            | 137,300            | 343,800            | 2,539,500   |
| 7/1/2023 | 221,500            | 126,975            | 348,475            | 2,318,000   |
| 7/1/2024 | 236,500            | 115,900            | 352,400            | 2,081,500   |
| 7/1/2025 | 251,500            | 104,075            | 355,575            | 1,830,000   |
| 7/1/2026 | 266,500            | 91,500             | 358,000            | 1,563,500   |
| 7/1/2027 | 281,500            | 78,175             | 359,675            | 1,282,000   |
| 7/1/2028 | 296,500            | 64,100             | 360,600            | 985,500     |
| 7/1/2029 | 311,500            | 49,275             | 360,775            | 674,000     |
| 7/1/2030 | 326,500            | 33,700             | 360,200            | 347,500     |
| 7/1/2031 | 347,500            | 17,375             | 364,875            | -           |
|          | <b>\$3,650,000</b> | <b>\$2,358,575</b> | <b>\$6,008,575</b> |             |

**RESOLUTION NO. \_\_\_\_\_-2012**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPROVING A SETTLEMENT AGREEMENT WITH TRIMET AND AUTHORIZING THE MAYOR TO SIGN THE AGREEMENT**

**WHEREAS** on December 16, 2008, TriMet and the City (the “Parties”) entered into an Intergovernmental Funding Agreement ( “Funding IGA”) obligating the City to pay Five Million and No/100 (\$5,000,000.00) dollars (“Funding Share”) for its share of TriMet’s installation of the Portland-Milwaukie Light Rail Transit Project (the “Project”);

**WHEREAS**, under paragraph 2 of the section entitled “Milwaukie Obligations” in the Funding IGA, the City is required to pay its Funding Share to TriMet in full within 90 days of Federal Transit Authority (“FTA”) approval of the Full Funding Grant Agreement (“FFGA”) for the Project (“Due Date”);

**WHEREAS**, The City agrees it is legally obligated to fulfill its obligations in the Funding IGA, but is unable to maintain its current service levels to its citizens if it were to provide the full amount of its Funding Share to TriMet by the Due Date;

**WHEREAS**, the City code requires payment of certain land use, construction, filing, review, inspections, other associated fees, and system development charges by TriMet to allow it to install the Project within the City (“Permit Fees and Charges”);

**WHEREAS**, ORS 30.395 provides authority for the settlement of claims and the appropriation of money in payment of claims against and between municipal corporations; and

**WHEREAS**, the Parties desire to reach a settlement that permits the City to pay TriMet its Funding Share in a manner that maintains city service levels and provides TriMet certainty with regard to Permit Fees and Charges, and further streamlines the process for payment of obligations between the Parties.

**WHEREAS**, the City and TriMet have developed a Settlement Agreement and the City shall pay its obligation to TriMet consistent with the terms and conditions of the Settlement Agreement.

**Now, therefore, the City of Milwaukie, Oregon, resolves as follows:**

- Section 1: That the City Council of the City of Milwaukie agrees to the terms of the Settlement Agreement with TriMet.
- Section 2: The Mayor is authorized to sign the Settlement Agreement on behalf of the City of Milwaukie.

Section 3: This resolution takes effect immediately upon passage.

Introduced and adopted by the City Council on May \_\_\_\_\_, 2012.

By: \_\_\_\_\_

Name: Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM

Jordan Ramis PC

\_\_\_\_\_  
Pat DuVal, City Recorder

\_\_\_\_\_  
City Attorney

Exhibit A

**Total Debt Service:**

|          | <b>Principal</b>    | <b>Interest</b>     | <b>Debt Service</b> | <b>Balance</b> |
|----------|---------------------|---------------------|---------------------|----------------|
| 7/1/2012 |                     |                     |                     | \$ 3,650,000   |
| 7/1/2013 | 9,500               | 182,500             | 192,000             | 3,640,500      |
| 7/1/2014 | 19,500              | 182,025             | 201,525             | 3,621,000      |
| 7/1/2015 | 29,500              | 181,050             | 210,550             | 3,591,500      |
| 7/1/2016 | 39,500              | 179,575             | 219,075             | 3,552,000      |
| 7/1/2017 | 130,000             | 177,600             | 307,600             | 3,422,000      |
| 7/1/2018 | 146,500             | 171,100             | 317,600             | 3,275,500      |
| 7/1/2019 | 161,500             | 163,775             | 325,275             | 3,114,000      |
| 7/1/2020 | 176,500             | 155,700             | 332,200             | 2,937,500      |
| 7/1/2021 | 191,500             | 146,875             | 338,375             | 2,746,000      |
| 7/1/2022 | 206,500             | 137,300             | 343,800             | 2,539,500      |
| 7/1/2023 | 221,500             | 126,975             | 348,475             | 2,318,000      |
| 7/1/2024 | 236,500             | 115,900             | 352,400             | 2,081,500      |
| 7/1/2025 | 251,500             | 104,075             | 355,575             | 1,830,000      |
| 7/1/2026 | 266,500             | 91,500              | 358,000             | 1,563,500      |
| 7/1/2027 | 281,500             | 78,175              | 359,675             | 1,282,000      |
| 7/1/2028 | 296,500             | 64,100              | 360,600             | 985,500        |
| 7/1/2029 | 311,500             | 49,275              | 360,775             | 674,000        |
| 7/1/2030 | 326,500             | 33,700              | 360,200             | 347,500        |
| 7/1/2031 | 347,500             | 17,375              | 364,875             | -              |
|          | <b>\$ 3,650,000</b> | <b>\$ 2,358,575</b> | <b>\$ 6,008,575</b> |                |