

AMENDMENT NO. 2
INTERGOVERNMENTAL AGREEMENT BETWEEN THE
TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON
AND THE CITY OF PORTLAND
TO DISBURSE FEDERAL GRANT FUNDS FOR THE
PRODUCTION OF A DOMESTICALLY MANUFACTURED STREETCAR
TRIMET CONTRACT NO. GH060317TL
CITY CONTRACT NO. 30001433

THIS AMENDMENT is made and entered into on the _____ day of _____, 2010, by and between the Tri-County Metropolitan Transportation District of Oregon, a mass transit district organized under the laws of the State of Oregon ("TriMet") and the City of Portland, a municipal corporation of the State of Oregon ("City")

RECITALS:

- A. Effective March 26, 2006, TriMet and the City entered into TriMet IGA No. GH060317TL (City IGA No. 52626 revised to new City IGA No. 30001433) (the "IGA") with the purpose of naming the City as a subrecipient of certain grant funds awarded to TriMet under Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users ("SAFETEA-LU").
- B. SAFETEA-LU, under the National Research Program within the Federal Transit Administration ("FTA"), indicated that not less than \$1,000,000 would be made available to TriMet in each of federal fiscal years 2006, 2007, 2008 and 2009 for the purchase and deployment of a domestically manufactured streetcar to be operated on the Portland Streetcar system ("Project"). Thereafter, four annual Congressional appropriations in federal fiscal years 2006, 2007, 2008 and 2009 were made for the Project, in the total amount of \$3,990,000.
- C. The IGA names the City as the responsible party to oversee and carry out the Project. The IGA further allows TriMet, under certain conditions, to disburse the grant funds to the City for the City's accomplishment of the Project.
- D. On September 17, 2008, FTA awarded an additional grant of \$490,000 to the Project, for the purpose of providing for selected upgrades to the prototype vehicle. The IGA was modified by Amendment No. 1 dated December 30, 2008, increasing the maximum funding to be disbursed to the City by \$490,000.
- E. On April 16, 2010, the FTA announced that TriMet will receive an additional \$2.4 million grant (FTA Project No. OR-26-7001-04) to support the \$3.0 million cost of developing and installing a domestically manufactured electrical/propulsion system on the prototype vehicle and for designing modifications to the standard streetcar vehicle for limited wireless operation using batteries and/or super capacitors. The prototype manufacturer and its subcontractor(s) will be reimbursed up to \$1,600,000 for their \$2,200,000 actual costs. The \$600,000 balance will serve as the local match for these additional grant funds.

AGREEMENT

- 1. Funding. Recognizing the amount of Congressional appropriations in 2006, 2007, 2008 and 2009, the maximum funding to be disbursed to the City shall be increased by \$2,400,000 for a new total of \$6,880,000. To reflect this increase in funding, Exhibit A is deleted in its entirety and replaced with substitute Exhibit A, attached hereto.
- 2. ALL OTHER PROVISIONS OF THE IGA REMAIN UNCHANGED

APPROVALS:

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

CITY OF PORTLAND

By: _____

By: _____

Date: _____

Date: _____

Neil McFarlane
General Manager

Sam Adams
Mayor

By: _____

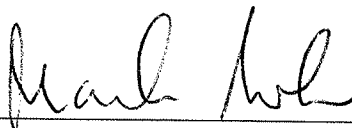
LaVonne Griffin-Valade
City Auditor

Approved as to Form:

By: _____

Tamara H. Lesh
Deputy General Council

By: _____


Mark Moline
Sr. Deputy City Attorney

**AMENDMENT No. 2
SUBSTITUTE EXHIBIT A**

A. FUNDING INFORMATION

The information below will assist auditors to prepare a report in compliance with the requirements of the Office of Management and Budget (OMB) Circular A-133.

This agreement is financed by the funding source indicated below:

Federal Program Title: (Federal funds available through)

Transit Research and Technology Programs – National Planning and Research Program

Federal Catalogue Number: CFDA 20.514

Federal Grant Number: OR-26-7001
OR-26-7011
OR-26-7001-04

Federal Earmark ID: E2006-NATR-027 \$990,000
E2007-NATR-6714 \$1,000,000
E2008-NATR-6713 \$1,000,000
E2008-NATR-6723 \$490,000
E2009-NATR-xxxx \$1,000,000

Expected Federal Funding:

\$1,000,000 in each of federal fiscal years 2006, 2007, 2008, 2009, subject to annual appropriations; plus \$490,000 in federal fiscal year 2009, subject to annual appropriation; plus \$2,400,000 in federal fiscal year 2010, from FTA discretionary funds.

Federal Funding Agency:

U.S. Department of Transportation
Federal Transit Administration
Office of Research, Demonstration
and Innovation
400 7th Street, S.W.
Washington DC 20590

U.S. Department of Transportation
Federal Transit Administration
Region X
Suite 3142
Federal Building
915 Second Avenue
Seattle WA 98174

B. PROJECT SCOPE OF SERVICES**1. City Obligations:**

- a. City shall develop a procurement process for production of a domestically manufactured streetcar, in conformance with City, State and federal requirements, including applicable FTA rules and requirements.
- b. City shall manage and implement the Project by preparing a project management plan and detailed schedule for submission to FTA, requesting proposals, making the subcontractor selection, contracting for professional and manufacturing services, scheduling, budgeting, conducting regular coordination meetings, preparing expenditure and progress reports, conducting field inspections, reviewing and approving design documents and submittals, making payments and taking other actions necessary to complete the Project in conformance with City, TriMet and FTA procedures and requirements.
- c. City shall carry out its management functions in conformity with all FTA requirements. In order to assist TriMet in its administration of the Grant, City will keep TriMet informed about and obtain TriMet approval of all actions, decisions and documents related to administration of the Project.
- d. City shall develop the evaluation criteria to be used in the application to FTA for the Grant, and to meet the requirements specified for preparing evaluation reports in compliance with FTA regulations.
- e. City shall bill TriMet monthly for work completed. An itemized invoice will be required in order for TriMet to release Grant funds. City's itemized invoices shall include billings from TriMet for costs of TriMet technical representatives. Upon receipt of payments from TriMet, City shall reimburse TriMet the amount of TriMet's billings for costs of its technical representative(s).
- f. City shall make arrangements for any interim financing as necessary to make payments to subcontractors, if such payments are due before Grant funds become available to TriMet.
- g. Disadvantaged Business Enterprise.
 - i. Pursuant to Section XVIII.A.1. of the TriMet DBE program, City shall operate under the umbrella of and in accordance with the provisions of the TriMet DBE Program for purposes of this Agreement.
 - ii. In accordance with 49 CFR 26.49, City shall require each transit vehicle manufacturer, as a condition of being authorized to propose on the procurement for the domestically manufactured streetcar, to certify that it has complied with DBE requirements.

h. City acknowledges that by entering into this Agreement, TriMet shall have no liability for the design or construction of the prototype streetcar.

i. Subject to FTA approval, City will own the finished prototype Streetcar vehicle and, if such prototype Streetcar vehicle meets minimum Streetcar requirements, City will test and operate the prototype Streetcar vehicle on the Streetcar system.

2. TriMet Obligations:

a. TriMet shall pay Project costs in an amount not to exceed Six Million Eight r Hundred Ninety Thousand Dollars (\$6,880,000) over the life of and in accordance with this Agreement, and shall manage the Grant. Provided that TriMet has received Grant funds, TriMet shall pay City's invoices monthly, within thirty (30) days from the date of receipt.

b. TriMet shall assign a qualified technical representative or representatives to participate in regular meetings and inspection trips and to advise and assist City personnel and engineering consultants assigned to the Project by City. Costs of TriMet technical representatives shall be Project costs. TriMet shall bill City monthly for such costs.

3. Local Match:

The Federal Transit Administration, Office of Research, Demonstration and Innovation, has made a determination that, since no entity involved in the purchase and deployment of a domestically produced streetcar would derive a clear and direct financial benefit, no local match is required for the work funded by federal earmark.

The work to be funded by FTA discretionary funds requires \$600,000 in local match, which will be the responsibility of the City. The City will require that it be paid for by the prototype manufacturer.