


**Date:** December 11, 2024

**To:** Board of Directors

**From:** Sam Desue, Jr. 

**Subject:** **RESOLUTION NO. 24-12-64 OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AMENDING TRIMET’S DEFINED CONTRIBUTION RETIREMENT PLAN FOR ITS MANAGEMENT AND STAFF EMPLOYEES TO CHANGE THE PICK-UP CONTRIBUTION RULES AND CLARIFY PARTICIPANT ELIGIBILITY**

**1. Purpose of Item**

This Resolution requests that the TriMet Board of Directors (Board) authorize amending TriMet’s Defined Contribution Retirement Plan for Management and Staff Employees to change the Plan’s Pick-up Contribution rules and to clarify the Plan’s Participant Eligibility rules.

**2. Type of Agenda Item**

- Initial Contract
- Contract Modification
- Other: Amend Defined Contribution Retirement Plan for Management and Staff Employees

**3. Reason for Board Action**

Board authorization is required to amend the Plan.

**4. Type of Action**

- Resolution
- Ordinance 1<sup>st</sup> Reading
- Ordinance 2<sup>nd</sup> Reading
- Other \_\_\_\_\_

**5. Background**

In 2003, TriMet established the Defined Contribution Retirement Plan for Management and Staff Employees (Plan). The Plan is a defined contribution retirement plan sponsored by TriMet for the benefit of its management and staff (i.e.,

non-union) employees and is intended to be a qualified plan under Section 401(a) of the Internal Revenue Code of 1986, as amended (Code).

At the Plan's inception, a Plan Administrative Committee (Committee) was established to oversee the Plan, and meets quarterly with investment advisors to monitor investment performance and growth. Members of the Committee include TriMet's Chief Financial Officer, the Executive Director of Labor Relations/Human Resources, the General Counsel, and the Director of Financial Services.

The Plan has both an employer and employee contribution component. The employer contribution is set at 10% of base pay. In addition, a newly eligible employee is permitted to make a one-time, irrevocable election within the first sixty (60) days of hire to contribute between 0% and 15% of their base pay to the Plan. This employee contribution is called a "Pick-up Contribution." If the employee fails to make a "Pick-up Contribution" election by the end of the 60-day period, the employee is deemed to have made a 0% election.

A substantively identical rule applies to the Pick-up Contribution provisions under the TriMet Defined Contribution Retirement Plan for Union-Represented Employees (Union Plan). However, in the new Working and Wage Agreement (WWA) ratified by the Union in August 2024 and approved by the TriMet Board in September 2024, if a newly eligible employee under the Union Plan fails to make an affirmative Pick-up Contribution election of between 0% and 15% of base pay within 60 days of hire, then the eligible employee will be deemed to have made a five percent (5%) Pick-up Contribution election under the Union Plan.

TriMet and the Committee recommend amending the Plan's current Pick-up Contribution election rules to mirror the newly agreed-upon Pick-up Contribution rules under the Union Plan.

Pick-up Contribution features in government retirement plans such as the Plan are subject to special rules established under the Internal Revenue Code and regulatory guidance issued to ensure those contributions are not treated as impermissible "cash or deferred arrangements."

To ensure the Plan's intended continuing compliance with these rules, TriMet wants to clarify the date on which a newly hired eligible employee first becomes a Participant under the Plan.

Accordingly, TriMet recommends that the Plan's eligibility rules be amended to provide that each newly hired Eligible Employee will first become a Participant in the Plan on the Eligible Employee's Participation Date, which shall be the earlier of:

- (i) the date the Eligible Employee completes and submits a written Pick-up Contribution election form; or
- (ii) the Eligible Employee's sixtieth consecutive day of employment

Provided that both of these recommended changes are made to the Plan, if a newly hired Eligible Employee completes and returns a properly executed Pick-up Contribution enrollment form within the 60-day period following hire, then the date on which the enrollment form is submitted becomes that Eligible Employee's Participation Date – and the irrevocable pick-up contribution rate that applies to that Participant shall be as set forth in that Participant's enrollment form (e.g., between 0% and 15%).

However, if no Pick-up Contribution enrollment form is completed and returned within this 60-day period, then the Eligible Employee's sixtieth consecutive date of employment is that Eligible Employee's Participation Date, and the Participant will be deemed to have irrevocably made a Pick-up Contribution election at a five percent (5%) default contribution rate.

Moreover, for all Plan contribution allocation purposes, including Employee Pick-up Contributions and Employer Contributions, each newly eligible Participant's "Considered Compensation" (as that term is defined by the Plan) will include only that compensation earned starting with the first day of the first complete pay period commencing on or next following the Participant's Participation Date.

**6. Financial/Budget Impact**

These changes do not have any financial impact on TriMet or its operating budget.

**7. Impact if Not Approved**

If the Resolution is not passed, then TriMet will be required to administer the Pick-up Contributions differently for union and non-union employees.

**RESOLUTION NO. 24-12-64**

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TRANSPORTATION DISTRICT OF OREGON (TRIMET)  
AMENDING TRIMET'S DEFINED CONTRIBUTION RETIREMENT  
PLAN FOR ITS MANAGEMENT AND STAFF EMPLOYEES TO  
CHANGE THE PICK-UP CONTRIBUTION RULES AND CLARIFY  
PARTICIPANT ELIGIBILITY**

**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 (Plan); and

**WHEREAS**, the Plan Committee and TriMet staff have recommended that the Plan be amended to clarify the Plan's eligibility rules for new entrants and to amend the Plan's Pick-up Contribution election rules, effective December 1, 2024; and

**WHEREAS**, by Resolution No. 24-12-64, dated December 11, 2024, the TriMet Board of Directors (Board) decided to amend the Plan's eligibility rules to provide that each newly hired Eligible Employee will first become a Participant in the Plan on the Eligible Employee's Participation Date, which shall be the earlier of:

- (i) the date the Eligible Employee completes and submits a written Pick-up Contribution election form; or
- (ii) the Eligible Employee's sixtieth consecutive day of employment.

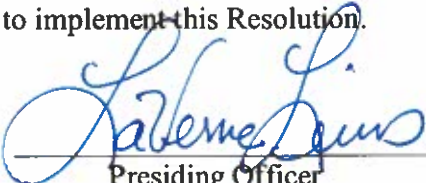
Provided that both of these recommended changes are made to the Plan, if a newly hired Eligible Employee completes and returns a properly executed Pick-up Contribution enrollment form within the 60-day period following hire, then the date on which the enrollment form is submitted becomes that Eligible Employee's Participation Date – and the irrevocable pick-up contribution rate that applies to that Participant shall be as set forth in that Participant's enrollment form (e.g., between 0% and 15%); and

**WHEREAS**, these changes are shown on the Sixth (6<sup>th</sup>) Amendment to the TriMet Defined Contribution Retirement Plan for Management and Staff Employees, attached hereto as Exhibit A;

**NOW, THEREFORE, BE IT RESOLVED:**

1. That the Plan's Pick-up Contribution provisions shall be amended effective December 1, 2024, for each newly-hired Eligible Employee to provide for a default Pick-up Contribution election of 5% of Covered Compensation, unless the Eligible Employee affirmatively elects a Pick-up Contribution between 0% and 15%.
2. That the Plan's Pick-up Contribution provisions shall be further amended to clarify that a Participant's Pick-up Contribution election (or default election) made within the 60-day period following the Participant's initial hire date will remain in effect for all periods of time during which such individual is employed by TriMet, whether as a union or a non-union employee.
3. That the Plan's eligibility provisions shall be amended to clarify when a newly-hired Eligible Employee first becomes a Participant in the Plan.
4. That the Sixth (6<sup>th</sup>) Amendment to the Plan shall conform to applicable law and be effective December 1, 2024.
5. That the General Manager or his designee is authorized to direct the Plan Administrators to adopt the Sixth (6<sup>th</sup>) Amendment to the Plan, as shown on the attached Exhibit A and described herein, and to execute such other documents and take such other necessary and desirable actions to implement this Resolution.

Dated: December 11, 2024

  
\_\_\_\_\_  
Presiding Officer

Attest:

  
\_\_\_\_\_  
Recording Secretary

Approved as to Legal Sufficiency:

  
\_\_\_\_\_  
Legal Department

**RESOLUTION NO. 24-12-64  
EXHIBIT A**

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

**SIXTH AMENDMENT**

**PARTIES**

THIS AMENDMENT is adopted by the Tri-County Metropolitan Transportation District of Oregon, hereinafter referred to as “TriMet.”

**RECITALS**

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

The Plan was most-recently amended and restated effective January 1, 2013, and subsequently amended five times, effective September 1, 2024, August 9, 2018, March 27, 2020, May 1, 2022, and January 1, 2024.

TriMet desires to again amend the Plan in certain respects.

**AMENDMENT**

The Plan is hereby amended effective December 1, 2024, as set forth on the pages hereto that are incorporated by reference herein as follows:

1. ARTICLE 1 – DEFINITIONS

- a. Added new 1.21 at page 4.
- b. Renumbered existing 1.21 and 1.22 as 1.22 and 1.23, respectively, at page 4.
- c. Added new 1.23 at page 5.
- d. Renumbered existing 1.22 and 1.23 as 1.24 and 1.25, respectively, at page 5.
- e. Added new 1.26 at page 5.
- f. Renumbered existing 1.24 through 1.34 as 1.27 through 1.37, respectively, at pages 5 to 7.

2. ARTICLE 3 – PARTICIPATION

- a. 3.1.1 at page 9

3. ARTICLE 4 – CONTRIBUTIONS

- a. 4.3.1 at page 11.  
b. 4.4 at page 12.

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:   
Nancy Young-Oliver  
Title: Chief Financial Officer

Date: December 11, 2024

## **ARTICLE 1. DEFINITIONS**

New Section 1.21 (Original Employment Commencement Date) is added to the Plan and existing Section 1.21 is renumbered as Section 1.22, accordingly:

### **“1.21 Original Employment Commencement Date**

For each Eligible Employee who is or has ever been a Participant in this Plan or any other retirement plan sponsored by TriMet governed by Code section 401(a), such individual’s Original Employment Commencement Date means the date on which an Employee first completes an Hour of Service for TriMet **or a Predecessor Company**, irrespective of whether that Employee’s employment was governed by the Collective Bargaining Agreement.”

New Section 1.23 (Participation Date) is added to the Plan and existing Sections 1.22 through 1.23 are renumbered as Sections 1.24 through 1.25, accordingly:

### **“1.23 Participation Date**

“For Eligible Employees with Original Employment Commencement Dates on and after December 1, 2024, Participation Date means the earlier of (a) or (b) below, so long as such Eligible Employee remains an Eligible Employee as of such date:

- (iii) the date the Eligible Employee completes and submits a written Pick-up Contribution Election Form; or
- (iv) the Eligible Employee’s sixtieth (60<sup>th</sup>) consecutive day of employment as measured from such Eligible Employee’s Original Employment Commencement Date.”

New Section 1.26 (Pick-up Contribution Election Form) is added to the Plan and existing Sections 1.24 through 1.34 are renumbered as Sections 1.27 through 1.37, accordingly.

### **“1.26 Pick-up Contribution Election Form**

Effective on and after December 1, 2024, a Pick-up Contribution Election Form means a written agreement, in such form as required by the Committee, which is completed and submitted to the Committee (or its delegate) within the first sixty (60) days following the Eligible Employee’s Original Employment Commencement Date.”



## ARTICLE 3. PARTICIPATION

### 3.1 Conditions of Participation.

#### 3.1.1 First Becomes Eligible Employee After April 26, 2003.

(a) **Prior to Decmeber 1, 2024.** Each Eligible Employee who first becomes an Eligible Employee after April 26, 2003, **but not after December 1, 2024**, shall be eligible to become a Participant in this Plan on his or her Employment Commencement Date or, if later, the date that he or she becomes an Eligible Employee.

(b) **On and after December 1, 2024.** Each Eligible Employee who first becomes an Eligible Employee after December 1, 2024, shall become a Participant under this Plan on his or her Participation Date.