

Date: September 26, 2018

To: Board of Directors

From: Doug Kelsey

Subject: RESOLUTION 18-09-65 OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING TRIMET TO ACQUIRE BY PURCHASE OR BY THE EXERCISE OF THE POWER OF EMINENT DOMAIN CERTAIN REAL PROPERTY NECESSARY TO CONSTRUCTION OF A FOURTH BUS OPERATIONS AND MAINTENANCE FACILITY

1. Purpose of Item

The purpose of this item is to request that the TriMet Board of Directors (Board) adopt a resolution authorizing the acquisition by purchase or by the power of eminent domain certain real property located at 4421 NE Columbia Boulevard (Columbia Property) necessary to construct a fourth bus maintenance and operations facility to support service expansion.

2. Type of Agenda Item

- Initial Contract
- Contract Modification
- Other Authorization to Acquire Real Property Through Purchase or Eminent Domain

3. Reason for Board Action

ORS Chapter 267 grants TriMet authority to acquire property by eminent domain and Chapter 35 sets forth the process for acquiring property by eminent domain in Oregon. Prior to the filing of an eminent domain complaint, ORS 35.235 requires the Board, by resolution or ordinance, to declare the necessity of acquiring the property for TriMet's use. In this case, the property to be acquired is necessary to construct a fourth bus maintenance and operations facility to support service expansion. Authorization is sought to continue negotiations and, if a satisfactory agreement cannot be reached, proceed to condemnation.

4. Type of Action

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

5. Background

In July 2018, the Board approved Resolution 18-07-55, declaring the necessity for TriMet to acquire the Columbia Property for use as its new bus facility, and also approving the Title VI

analysis contained in the Title VI report for the site. As described in that resolution, TriMet requires a new bus maintenance and operations facility, in addition to the three it currently operates, to support the significant service expansion that is beginning. This service expansion is funded by an incremental increase to the payroll tax that was approved by the Board in 2016, and which includes step increases for each of the next ten years, as well as by revenue generated by House Bill 2017 (HB 2017), a statewide transit tax funded by the withholding of .001% of wages earned in Oregon, which is expected to provide approximately \$51,000,000 per year to TriMet starting in fiscal year 2020. As part of its service expansion plans, TriMet will increase its bus fleet from its current size of approximately 715 buses to about 853 buses in the year 2022 and 924 buses by 2025. This increase necessitates the acquisition of a new bus facility to store, operate, and maintain buses.

TriMet selected the Columbia Property as best suited for its new bus facility after significant discussion, consideration, and research. Among the factors considered were the following:

- a. Size – The Columbia Property is about 30 acres, an ideal size for both the near and long terms. TriMet anticipates being able to utilize this site for generations, and it has excellent potential for future expansion as TriMet continues to grow.
- b. Location – TriMet does not currently have a bus base in northeast Portland, and adding a base there would provide some geographical balance. The analysis of the impact on bus “deadhead” time and costs at the site was competitive with the other sites under consideration. The analysis also indicated that the Columbia Property has good access points and would provide good access to operator road relief points.
- c. Site Layout – The Columbia Property has approximately 15 buildings, several of which are immediately useable with relatively minor construction work, making the site more cost-effective than a site that would require construction of buildings from the ground up.
- d. No Business Disruption – The Columbia Property is currently occupied by Peterson Caterpillar, a business that sells and repairs heavy tractor equipment and parts. Peterson Caterpillar is in the process of moving into a new facility it constructed in Hillsboro, so TriMet’s acquisition of this site will not cause any disruption to its business.
- e. Community Engagement – TriMet has conducted engagement with community-based organizations and neighborhood associations in the area, including NAYA, Hacienda, Verde, and the Columbia Corridor Association. All are generally supportive, and TriMet is committed to continuing to work with these groups as the project moves forward. TriMet also sent postcards to all addresses in a half mile radius around the property informing neighbors of the proposed use and the public involvement process.
- f. No Disparate Impacts - TriMet conducted a Title VI analysis and drafted a Title VI Report, which determined that use of the Columbia Property as a bus facility does not result in disparate impacts on the basis of race,

color, or national origin.

The legal description of the Columbia Property is attached to Resolution 18-09-65 as Exhibit A. TriMet received an independent appraisal of the Columbia Property and made a formal offer to the property owner on August 15, 2018.

6. Procurement Process

TriMet has been engaged in negotiations with the owner regarding purchase of the site, but no agreement has been reached at this time.

7. Financial/Budget Impact

The purchase of the Columbia Property is included in the Capital Budget for FY 2019-20.

8. Impact if Not Approved

This Resolution would authorize TriMet to acquire the Columbia Property for use as its new bus operations facility through either negotiation or condemnation. Although TriMet's negotiations with the owner thus far have been cordial and TriMet is hopeful that acquisition of the site will ultimately be resolved through negotiations, possessing the authority to initiate condemnation proceedings for the Columbia Property will allow the parties to continue negotiations while ensuring that TriMet will be able to obtain possession of the site in the time frame needed to maintain its construction schedule.

RESOLUTION 18-09-65

RESOLUTION OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING TRIMET TO ACQUIRE BY PURCHASE OR BY THE EXERCISE OF THE POWER OF EMINENT DOMAIN CERTAIN REAL PROPERTY NECESSARY TO CONSTRUCTION OF A FOURTH BUS OPERATIONS AND MAINTENANCE FACILITY

WHEREAS, ORS 267.200(2) and ORS 267.225(2) authorize and empower TriMet to acquire by condemnation, purchase, lease, devise, gift or voluntary grant real and personal property or any interest therein located inside the boundaries of TriMet for the purposes of providing and operating a mass transit district and aiding in the objects of the district; and

WHEREAS, House Bill 2017 (2017 Or. Laws Ch. 750), passed by the Oregon Legislature, is expected to provide approximately \$51,000,000 per year to TriMet, a large portion of which will support bus service expansion and the capital needs to provide such expansion; and

WHEREAS, TriMet currently has three bus maintenance and operations facilities, which are at or nearing capacity; and

WHEREAS, TriMet must construct a fourth bus maintenance and operations facility in order to accommodate the procurement and operation of additional buses, which are necessary to meet service expansion needs in the Portland metropolitan area; and

WHEREAS, ORS 35.235 requires the Board, after first declaring by resolution the necessity of the acquisition of real property and the purpose for which it is required, to attempt to agree with the owner of said real property with respect to compensation to be paid therefore, and the damages, if any, for the taking thereof;

WHEREAS, the Board adopted Resolution No. 18-07-55 on July 25, 2018 and TriMet has attempted to agree with the owner for compensation to be paid; and

WHEREAS, for the accomplishment of the construction of the fourth bus operations and maintenance facility, it is necessary that TriMet have the immediate right of possession to certain real property described in this Resolution;

NOW, THEREFORE, BE IT RESOLVED:

1. That for the accomplishment of the planned bus service expansion there is needed and required fee interest in certain real property specifically described in Exhibit A and shown generally in Exhibit B (Columbia Property), and said exhibits are by this reference hereby adopted and made a part hereof as completely and fully as though set forth in full herein.
2. That the construction of a fourth bus operations and maintenance facility is necessary for the public interest, and has been planned, designed, located and will be constructed in a manner that will be most compatible with the greatest public good and the least private injury.
3. That the immediate possession of the Columbia Property is necessary.

4. That TriMet staff is authorized and directed to make attempts to agree with the owner of the Columbia Property and any other persons in interest as to the compensation to be paid for the property and damages, if any, for the taking thereof, and the General Manager or his designee is authorized to make a binding offer for such compensation.

5. That the Board hereby ratifies all offers to purchase all rights, title, and interest that have been previously made in connection with the Columbia Property.

6. That in the event no satisfactory agreement can be reached, TriMet staff, through its legal counsel, is authorized to commence and prosecute to final determination such proceedings as may be necessary to obtain immediate possession and acquire the Columbia Property; and TriMet staff, through its legal counsel, is further authorized to make such stipulations, agreements, or admissions in the course of such proceedings as may, in counsel's judgment, be in the best interests of TriMet.

7. That there is hereby authorized the creation of a fund in the amount estimated to be the just compensation for the Columbia Property which shall, to obtain possession of the property, be deposited with the clerk of the Court in which the action is commenced for the use by the defendants in the actions.

8. That the General Manager or his designee is authorized to execute the necessary documents on behalf of the Board in a form approved by TriMet's General Counsel.

Dated: September 26, 2018

Presiding Officer

Attest:

Recording Secretary

Approved as to Legal Sufficiency:



Legal Department

RESOLUTION 18-09-65

Exhibit A

Order No.: 45141804190

EXHIBIT "A"
Legal Description

PARCEL 1:

A tract of land located in the Northwest one-quarter of Section 18, Township 1 North, Range 2 East of the Willamette Meridian, in the City of Portland, County of Multnomah and State of Oregon, more particularly described as follows:

Beginning at the intersection of the East line of the William Hall Donation Land Claim with the Northerly line of N.E. Columbia Boulevard (C.R. #3824), said point being North 00°37'00" East, 40.61 feet from road angle 12 of C.R. #527 and also being 886.78 feet Northerly from the Southeast corner of said Hall Donation Land Claim; thence South 79°31'00" East along said Columbia Boulevard, 127.59 feet to an intersection with the South line of that certain tract recorded January 27, 1949, in Book 1316, Page 407, Deed Records of said County; thence South 83°25'29" East, 68.67 feet to the West line of N.E. 46th Avenue; thence North 01°25'00" East along said N.E. 46th Avenue, 780.90 feet; thence North 88°35'00" West, 204.93 feet to said East line of the Hall Donation Land Claim; thence North 00°37'00" East along said Donation Land Claim 697.45 feet to the center of an arm of the Columbia Slough; thence Northwesterly along the center of said slough the following courses: North 62°37'00" West, 234.28 feet; thence North 58°06'00" West, 174.16 feet; thence North 57°18'00" West, 429.70 feet to the East line of the land of Charles H. Payne; thence South 00°17'50" East along said line of the Payne tract, 1571.68 feet to the Northeast corner of that tract conveyed by Deed recorded February 21, 1974, in Book 972, Page 1480, Deed Records; thence West, 95.78 feet; thence South 00°17'50" East, 94.78 feet to the Northerly line of N.E. Columbia Boulevard (C.R. #3824); thence South 73°36'00" East along said Columbia Boulevard, 100.00 feet to said line of the Payne tract; thence continuing along said Columbia Boulevard South 73°36'00" East, 510.32 feet to a point of curve 35 feet opposite Engineer's Station 152+68.79 E.C.; thence on a 1397.40 foot radius curve to the left with a chord that bears South 76°33'30" East, 144.24 feet, an arc distance of 144.30 feet to a point of tangency 35 feet opposite Engineer's Station 151+20.87 B.C.; thence South 79°31'00" East, 64.30 feet to the point of beginning.

PARCEL 2:

A tract of land located in the Northwest one-quarter of Section 18, Township 1 North, Range 2 East of the Willamette Meridian, in the City of Portland, County of Multnomah and State of Oregon, more particularly described as follows:

Beginning at the intersection of the East line of the William Hall Donation Land Claim with the Northerly line of N.E. Columbia Boulevard (C.R. #3824), said point being North 00°37'00" East 40.61 feet from road angle 12 of C.R. #527 and also being 886.78 feet Northerly from the Southeast corner of said Hall Donation Land Claim; thence South 79°31'00" East along said Columbia Boulevard, 127.59 feet to an intersection with the South line of that certain tract recorded January 27, 1949, in Book 1316, Page 407, Deed Records of said County which is the true point of beginning; thence South 83°25'29" East, 68.67 feet to the West line of N.E. 46th Avenue; thence South 01°25'00" West along said N.E. 46th Avenue 4.74 feet to the Northerly line of N.E. Columbia Boulevard; thence North 79°31'00" West along said North line of N.E. Columbia Boulevard 69.26 feet to the true point of beginning.

PARCEL 3:

The following described parcel of land located in the Northwest one quarter of Section 18, Township 1 North, Range 2 East, in the City of Portland, County of Multnomah and State of Oregon:

Beginning at Road Angle No. 12 in the center of County Road No. 527 (Northeast Columbia Boulevard) ; thence North 1° 25' East, 20.70 feet to the Northerly line of said County Road No. 527; thence South 73° 36' East, 4.32 feet along the Northerly line of said County Road; thence South 79° 31' East along the Northerly line of said County Road, a distance of 212.62 feet to the center of a 40 foot roadway known as Northeast 46th Avenue; thence North 1° 25' East along the center line of said Northeast 46th Avenue, a distance of 809.17 feet to the true place of beginning of the tract of land herein described; thence North 88° 35' West 214.14 feet; thence North 1°

EXHIBIT "A"
Legal Description

25' East 50.0 feet; thence South 88° 35' East 214.14 feet; thence South 1° 25' West, 50.0 feet to the true place of beginning.

EXCEPTING THEREFROM the rights of the public in and to the East 20 feet of the above described tract of land.

PARCEL 4:

A tract of land situated in the Northwest one-quarter of Section 18, Township 1 North, Range 2 East of the Willamette Meridian, in the City of Portland, County of Multnomah and State of Oregon, more particularly described as follows:

Commencing at a 4-1/4" diameter brass cap marking the West one-quarter corner of said Section 18; thence North 01° 47' 47" East, a distance of 603.96 feet to a point in the center line of NE Columbia Boulevard (70 feet wide), said point also being the point of intersection of the center line of NE 42nd Avenue (45 feet wide) with said center line of NE Columbia Boulevard; thence North 00° 19' 30" West, along the center line of said NE 42nd Avenue 205.70 feet; thence North 89° 40' 30" East, a distance of 20.00 feet to a brass screw with a 3/4" diameter brass washer stamped "Marx Assocs" marking the Southwest corner of Parcel IV of that tract conveyed to Don W. and Bonnie L. Thomas, LLC, as described in Recorder's Fee No. 2002-159286, Deed Records, Multnomah County, said corner also being a point on the East right-of-way line of said NE 42nd Avenue, and the point of beginning of the tract herein to be described; thence North 00° 19' 30" West, along said East right-of-way line, a distance of 149.65 feet to a brass screw with a 3/4" diameter brass washer stamped "Marx Assocs"; thence North 89° 37' 05" East, a distance of 70.28 feet to a 5/8 inch iron rod with a yellow plastic cap stamped "Marx Assocs"; thence North 43° 34' 56" East, a distance of 21.18 feet to a 5/8 inch iron rod with a yellow plastic cap stamped "Marx Assocs"; thence North 01° 17' 00" West, a distance of 180.29 feet to a 5/8 inch iron rod with a yellow plastic cap stamped "Marx Assocs"; thence North 87° 32' 29" East, a distance of 22.11 feet to a 5/8 inch iron rod with a yellow plastic cap stamped "Marx Assocs"; thence North 00° 55' 00" West, a distance of 40.96 feet to a 5/8 inch iron rod with a yellow plastic cap stamped "Marx Assocs" in the North line of Parcel I of said Thomas tract; thence North 89° 40' 30" East, along said North line, a distance of 136.15 feet to the Northeast corner thereof; thence South 00° 19' 30" East along the East line of Parcels I, II, III & IV of said Thomas tract, a distance of 387.03 feet to the Southeast corner thereof; thence South 89° 40' 30" West, along the South line of Parcel IV of said Thomas Tract, a distance of 239.78 feet to the point of beginning.

