

**Date:** June 28, 2023

**To:** Board of Directors

**From:** Sam Desue, Jr.

**Subject: RESOLUTION NO. 23-06-26 OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) DECLARING CERTAIN REAL PROPERTY AS NECESSARY FOR CONSTRUCTION AND OPERATION OF THE PARK AVENUE PARK & RIDE PARKING GARAGE EXPANSION PROJECT**

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**1. Purpose of Item**

This Resolution requests that the TriMet Board of Directors (Board) declare that certain real property interests are necessary for the construction and operation of the Park Avenue Park & Ride Garage Expansion Project (Project), and authorize the General Manager or his designee to make offers to acquire that property interest by purchase or by the power of eminent domain.

**2. Type of Agenda Item**

- Initial Contract
- Contract Modification
- Other Declaration of Necessity of Real Property

**3. Reason for Board Action**

Chapter 267 of the Oregon Revised Statutes authorizes TriMet to acquire real property by purchase or eminent domain, and ORS 35.235 requires the Board to declare the necessity and purpose for which it is required.

**4. Type of Action**

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

**5. Background**

In September 2015, TriMet completed the construction of the Park Avenue Park & Ride Parking Garage (Parking Garage) in Milwaukie, as part of the Portland-Milwaukie Light Rail (PMLR or Orange Line) project. The original scope of the Orange Line project envisioned four floors of parking at the Parking Garage. Although two floors were deleted from the project scope as the result of value engineering considerations early in the design phase, TriMet still anticipated that two additional floors eventually would be needed. Therefore, TriMet required the original design to accommodate future construction of additional floors.

Immediately after the Orange Line opened for revenue service in 2015, and up until the start of the COVID-19 pandemic, the Parking Garage was over capacity, leading TriMet to lease

parking space from the adjacent Elks Lodge. Since the completion of the Orange Line, TriMet staff have pursued funding from the Federal Transit Administration to add back the two floors that were cut from the Parking Garage during its construction.

Because the Orange Line project was finished under its allocated budget, TriMet was eventually successful in receiving an addendum to the project budget to allow construction of the additional two floors. Although the work was paused during the pandemic, TriMet staff anticipates that future Orange Line ridership should recover enough to warrant construction of the additional floors, and TriMet is now moving forward with the expansion of the Parking Garage.

At its April 26, 2023 meeting, via Resolution No. 23-04-16, the Board authorized the General Manager to execute a contract with Skanska USA Building, Inc. for Design/Build Services for the Project.

In order to construct and operate the Project, TriMet must acquire certain interests in adjacent real property. When determining the location and size of the property acquisition, TriMet has taken care to ensure the least possible impact on private property. In this case, the only property interest TriMet needs to acquire is a temporary construction easement at the adjacent parcel owned by the Milwaukie-Portland Elks Lodge No. 142 (Property), which TriMet leased for additional parking prior to the pandemic.

Acquisition of this temporary construction easement will allow TriMet and its contractor to utilize the Property for a period of approximately 16 months for construction staging and parking. TriMet has a good relationship with the Elks Lodge and anticipates that the temporary easement will be acquired by negotiation. Condemnation of the easement is not likely to be required.

**6. Financial/Budget Impact**

The necessary payment of fair market value for the Property is a Project cost, and is included in the Project budget.

**7. Impact if Not Approved**

This Resolution is required by state and federal law in order for TriMet to acquire the real property interests necessary to construct and operate the Project. After approval of the Resolution, TriMet staff will make a formal written offer to purchase the temporary construction easement over the Property based on an independent appraisal, and will attempt to agree with the Elks Lodge to acquire the temporary easement.

Because TriMet anticipates the Property will be acquired by negotiation, this Resolution does not authorize TriMet to file a condemnation lawsuit. In the unlikely event that the temporary construction easement cannot be acquired through negotiation, staff will return to the Board and request authorization to acquire the needed property interest through condemnation.

## **RESOLUTION NO. 23-06-26**

### **RESOLUTION NO. 23-06-26 OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) DECLARING CERTAIN REAL PROPERTY AS NECESSARY FOR CONSTRUCTION AND OPERATION OF THE PARK AVENUE PARK & RIDE GARAGE EXPANSION PROJECT**

**WHEREAS**, the Park Avenue Park & Ride Parking Garage Expansion Project (Project) will add two additional floors to the existing Park Avenue Park & Ride Parking Garage; and

**WHEREAS**, the Project has been approved as part of the Federal Transit Administration grant for the Portland-Milwaukie Light Rail (Orange Line) Project; and

**WHEREAS**, TriMet has identified certain real property and real property interests owned by the Milwaukie-Portland Lodge No. 142 Benevolent and Protective Order of Elks of the United States of America, and generally described and depicted on the attached Exhibits A and B, as necessary to acquire for the construction and operation of the Project; and

**WHEREAS**, pursuant to ORS 267.200(2) and ORS 267.225(2), TriMet is authorized and empowered to acquire by condemnation, purchase, lease, devise, gift or voluntary grant, real and personal property or any interest therein located inside the TriMet boundaries; and

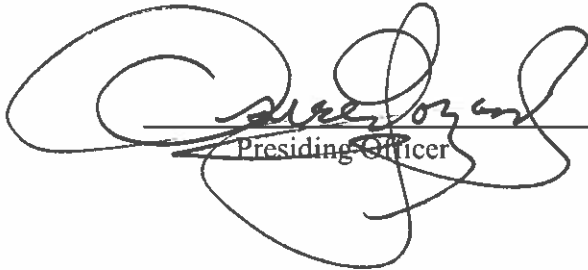
**WHEREAS**, pursuant to ORS 35.235, after the Board first declares by Resolution the necessity for the acquisition of real property and the purpose for which it is required, TriMet is authorized to attempt to agree with the owner of said real property on the amount of compensation to be paid therefore, and the damages, if any, for the taking thereof.

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

1. The Board hereby declares that the acquisition of a temporary construction easement on certain real property, generally described and depicted on the attached Exhibits A and B and owned by the Milwaukie-Portland Lodge No. 142 Benevolent and Protective Order of Elks of the United States of America, previously known as Milwaukie Lodge Number 2032, Benevolent and Protective Order of Elks of the United States of America, a corporation of Oregon, also shown of record as Milwaukie Elks Lodge #2032, is necessary for the construction and operation of the Project.
2. That Exhibit A and Exhibit B are attached hereto and made a part hereof, as if fully set forth herein.
3. That the construction of the Project 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.

4. That the General Manager or his designee is authorized and directed to attempt to make agreements with the owner of the 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 is authorized to make a binding offer for such compensation.

Dated: June 28, 2023



Presiding Officer

Attest:



Recording Secretary

Approved as to Legal Sufficiency:



Legal Department