



Nathan Vasquez, Multnomah County District Attorney

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November 17, 2025

via email only

Kristin Asai
Holland & Knight LLP
Kristin.Asai@hkllaw.com

Sarah Ewing
Senior Deputy General Counsel
TriMet
ewings@trimet.org

Re: Petition of Lamar Transit seeking pricing information underlying a TriMet contract

Dear Ms. Asai and Ms. Ewing:

Pursuant to ORS 192.422 Lamar Transit has petitioned this office for an order requiring TriMet to release advertising pricing data. Petitioner was an unsuccessful bidder for an advertising contract with TriMet. The successful bidder, Intersection, now is the vendor authorized to sell advertising on TriMet's bus, rail, and paratransit systems.

Specifically, on September 15, 2025, petitioner made a public records request for the contract between TriMet and Intersection, as well as amendments, modifications, or similar changes. TriMet fulfilled this portion of the request and it is not at issue. The second portion sought records relating to the financial performance of the contract. After some back-and-forth, the wording of the request was for:

Copies of all records relating to the parties' performance of any financial and reporting obligations under each Contract including, but not limited to, records reflecting: amounts paid by Intersection pursuant to the Contract; (ii) confirmed sales by year; (iii) all other confirmed sales reports, including advertising revenue sales.

TriMet produced records including the monthly gross and net totals but redacted individual transaction rate and pricing data at the request of Intersection on the basis that it represented a trade secret.

DISCUSSION

A. Trade Secrets – ORS 192.345(2) and ORS 646.461

ORS 192.345(2) conditionally exempts trade secrets from disclosure under the public records law. However, the Court of Appeals has made clear that the misappropriation of trade secrets provisions in ORS 646.461 *et seq.* apply unconditionally in the public records context. *Pfizer Inc. v. Oregon Dep't of Justice*, 254 Or App 144, 158 (2012). That is to say, if release of a

November 17, 2025

Petition of Lamar Transit

public record would constitute a misappropriation of a trade secret, those records are exempt from disclosure without consideration of the public's interest in disclosure.

ORS 646.461(4) defines a trade secret as:

information, including a drawing, cost data, customer list, formula, pattern, compilation, program, device, method, technique or process that:

(a) Derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use; and

(b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

In this instance the redacted information is "cost data," and petitioner does not appear to argue otherwise. See, *Petition of Baldwin*, Att'y Gen. PRO (Dec. 7. 1989) (price lists are "cost data" and can qualify for trade secret protection in Oregon). Rather, petitioner argues that the data should be disclosed because it involves public funds, was previously disclosed, and is known to third-party advertisers.

That something involves public funds certainly creates a public interest in oversight and transparency. However, as discussed in *Pfizer* there is no public interest assessment when evaluating the disclosure of trade secret information. That this involves public funds is not relevant to my evaluation of the redactions in this case.

I also readily dismiss the third argument. Cost data is by its very nature always known to two parties: the buyer and the seller. It is the aggregation of costs (i.e. cost data, not a cost datum) that can have independent economic value to a business.

Of more interest is the fact that TriMet previously released a portion of the data it is now seeking to withhold in response to a 2022 public records request from petitioner. It goes without saying that information that is publicly released is not, or at least is not anymore, a trade secret. See ORS 646.461(4)(b).

TriMet relates that in 2021 it responded to a similar request from petitioner, and redacted the same pricing information. Then in 2022 it again responded to a renewed request, but for unknown reasons did not consult with Intersection and released unredacted information for January 1, 2021 through December 1, 2021. TriMet asserts that the 2021 data produced in response to the 2022 request was an anomaly, and that its handling of the present request reverts to its previous practice of withholding the data as a trade secret.

The release of the 2021 data, breached any protection it might have had, and TriMet acknowledges this: it has now re-provided those months of data to petitioner under the present request. I do not, however, believe that the disclosure of this information in one instance establishes that it is not a trade secret under ORS 646.461(4), merely that someone erroneously released it.

The pricing information contained in the record is the product of specific negotiations between Intersection and its individual clients that is not publicized. TriMet relates that this data is not widely known even within Intersection and that Intersection, TriMet, and the individual advertising purchaser are the only one ones privy to the financial details of each transaction. The

Page 3

November 17, 2025

Petition of Lamar Transit

fact that this data is sought by a direct competitor is further evidence the data has economic value from not being generally known. See also, *Baldwin*, above at 4 (“knowledge of this information would allow a competitor to undercut Caremark’s or VitalCare’s rates, thus giving the competitor an advantage in the marketplace.”)

I find that TriMet has met its burden of establishing that the withheld pricing details (i.e. not the previously disclosed 2021 data) is a trade secret of Intersection and thus unconditionally exempt from disclosure.

ORDER

Accordingly, the petition is denied.

Regards,

NATHAN VASQUEZ
District Attorney
Multnomah County, Oregon

By: 

Adam Gibbs
General Counsel

25-76