

RESOLUTION NO. 2004-020

A Resolution Authorizing the Lane Transit District to
Acquire by Purchase or by the Exercise of the Power of Eminent Domain
Certain Real Property Necessary for the Franklin Corridor Design of the Bus Rapid Transit Project

WHEREAS, ORS 267.200(2) and ORS 267.225(2) authorize and empower Lane Transit District (“LTD”) to acquire by condemnation, purchase, lease, devise, gift, or voluntary grant real and personal property or any interest therein located inside the boundaries of its transit district.

WHEREAS, LTD is in the process of working with local, state, and federal agencies in the planning and construction of the Bus Rapid Transit (“BRT”) Project which will result in a bus rapid transit system designed to help accommodate the transportation needs of Eugene and Springfield. The first phase of the BRT Project (“Phase 1”) will connect downtown Eugene to downtown Springfield and will include the construction of bus guide ways, bus stations, transit signals, landscaping, bicycle and pedestrian enhancements, and other corridor improvements.

WHEREAS, LTD completed an Environmental Impact Statement for Phase 1 of the BRT Project. Following public notice, LTD held a public meeting on June 20, 2001, and adopted Resolution No. 2001-025, approving Phase 1.

WHEREAS, Phase 1 is planned and will be located in a manner that is most compatible with the greatest public good and the least private injury.

WHEREAS, Phase 1 is in compliance with and in furtherance of adopted LTD plans and policies, including, but not limited to, increasing transit ridership, improving neighborhood livability and environment, overall enhancing the public transit services for the district, and is for the benefit and general welfare of the public.

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

WHEREAS, following public notice, LTD held a public meeting on September 17, 2003, and adopted Resolution No. 2003-031, approving the acquisition of the real property described in that resolution and declaring the purpose for which the acquisition of that property is required.

WHEREAS, as a result of modifications to the design of the BRT project, LTD has the need to acquire real property in addition to that real property described in Resolution No. 2003-031.

WHEREAS, for the accomplishment of Phase 1, it is necessary that LTD have the immediate right of possession to certain parcels of real property described in this Resolution.

NOW, THEREFORE, based upon the above findings, which are incorporated herein by reference and hereby adopted, LTD does find, declare, and adopt:

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1. That for the accomplishment of the planned Phase 1, there is needed and required certain interests in or fee simple title to certain parcels of real property more particularly described on Exhibit A through Exhibit I attached hereto and incorporated herein by this reference (collectively, the "Real Property").

2. That Phase 1 is necessary for the public interest and has been planned, designed, located, and will be constructed in a manner which will be most compatible with the greatest public good and the least private injury and is authorized under the rules and ordinances of LTD, the laws of the state of Oregon, and all applicable federal laws.

3. That immediate possession of the Real Property is necessary.

4. That LTD staff and/or its designees are authorized and directed to obtain all necessary appraisals and to make further attempts to agree with the owners of the Real Property and any other persons in interest as to the just compensation to be paid for the Real Property and damages, if any, for the taking thereof, and LTD's General Manager or his designee is authorized to make a binding agreement providing such just compensation.

5. That the LTD Board hereby ratifies all actions in connection with the purchase and all offers to purchase all rights, title, and interest in the Real Property that have been previously undertaken or made in connection with Phase 1 of the BRT Project.

6. That in the event no satisfactory agreement is reached between the Real Property owners and LTD, LTD, through its legal counsel, is authorized to commence and prosecute to final determination such legal proceedings, including proceedings in eminent domain, as may be necessary to obtain immediate possession of and to acquire the Real Property.

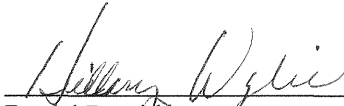
7. That there is hereby authorized the creation of a fund in the amount estimated to be the just compensation for the Real Property which, if necessary, shall be deposited with the clerk of the court in which the eminent domain action is commenced.

8. That the LTD Board declares that the Real Property described in Section 1 above shall be used by LTD for public purposes at the earliest possible date and, in any event, no later than ten (10) years from the date this Resolution No. 2004-020 is adopted by LTD.

9. That the General Manager or his designee(s) is authorized to execute any and all necessary documents and to take such other steps on behalf of LTD as necessary to carry out the intent of this Resolution No. 2004-020.

Adopted by the Lane Transit District Board of Directors on the 19th day of May, 2004.

May 19, 2004


Board President

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EXHIBIT A

Approximately 20 square feet, more or less, lying in Lane County, Oregon from the following property:

Being part of the property vested in the Franklin Blvd. Properties Group LCC, as described in Bargain and Sale Deed recorded as Reception No. 2003-041200, Lane County Official Records, in Lane County, Oregon which is more particularly described as follows:

Beginning at a point lying 95.00 feet left of station "L" 136+25.53 of the Pacific Highway from Oregon Department of Transportation map No. 6B-1-1, dated July, 1941, said point being the southwest corner of the aforementioned property, thence North 2°00'27" East a distance of 2.79 feet, thence South 71°04'00" East a distance of 75.77 feet, thence South 17°38'27" West a distance of 0.98 feet to the northerly margin of Pacific Highway, thence along said Highway North 72°21'33" West a distance of 75.04 feet to the Point of Beginning.

Containing 138 Sq. Ft., lying in Lane County, Oregon.

The bearings for this description are based on the Oregon State Plane Coordinate System.

EXHIBIT B

Approximately 40 square feet, more or less, lying in Lane County, Oregon from the following property:

Being part of the property vested in the Franklin Blvd. Properties Group LCC, as described in Bargain and Sale Deed recorded as Reception No. 2003-041200, Lane County Official Records, in Lane County, Oregon which is more particularly described as follows:

Beginning at a point lying 95.00 feet left of station "L" 138+31.81 of the Pacific Highway from Oregon Department of Transportation map No. 6B-1-1, dated July, 1941, said point being the southeast corner of the aforementioned property, thence along the northerly margin of Pacific Highway North $72^{\circ}21'33''$ West a distance of 10.77 feet, thence leaving said highway North $17^{\circ}38'27''$ East a distance of 11.43 feet to the west margin of Riverside Avenue, thence South $2^{\circ}00'27''$ West a distance of 7.71 feet to the Point of Beginning.

Containing 40 Sq. Ft., lying in Lane County, Oregon.

The bearings for this description are based on the Oregon State Plane Coordinate System.

EXHIBIT C

Approximately 286 square feet, more or less, lying in Lane County, Oregon from the following property:

Being part of the property vested in Oldham Properties, LLC, as described in Reel 2304R, Rec. No. 9739499, Lane County Official Records, in Lane County, Oregon which is more particularly described as follows:

Beginning at a point lying 37.25 feet left of station "L6" 228+77.50 of the Pacific Highway from Oregon Department of Transportation map No. 6B-3-15, dated January, 1942, point also being the southeast corner of the aforementioned property, thence running along the north margin of the aforementioned highway along the arc of a 1395.19 radius curve to the right having a central angle of 5°08'17", and a long chord bearing North 70°46'09" West 125.08 feet a distance of 125.13 feet, thence North 22°25'05" East a distance of 1.85 feet, thence South 67°34'55" East a distance of 5.91 feet, thence along the arc of a 800.52 radius curve to the left having a central angle of 8°26'31", and a long chord bearing South 71°59'19" East 117.84 feet for a distance of 117.95 feet to the east property line, thence South 1°45'46" West along said east line a distance of 4.23 feet to the Point of Beginning.

Containing 286 Sq. Ft., lying in Lane County, Oregon.

The bearings for this description are based on the Oregon State Plane Coordinate System.

EXHIBIT D

Approximately 878 square feet, more or less, lying in Lane County, Oregon from the following property:

Being part of the property vested in Robert S. Cochran, as described in Reel No. 2186R, Rec. No. 96-41362, Lane County Official Records, in Lane County, Oregon which is more particularly described as follows:

Beginning at a point lying 37.28 feet left of station 115+59.40 of the Pacific Highway from Right of Way Monumentation map CSF 34849 filed 1-20-98 in the records of the Lane County Surveyor, point also being the southwesterly corner of the aforementioned property, thence North 7°39'30" West along west line of said property a distance of 10.99 feet, thence leaving west property line North 87°54'12" East a distance of 1.00 feet, thence South 7°39'30" East a distance of 4.35 feet, thence North 85°29'16" East a distance of 228.95 feet to the east line of the aforementioned property, thence South 5°53'44" East along said east property line a distance of 1.02 feet to the north margin of the aforementioned highway, thence traveling along the north highway margin South 85°29'16" East a distance of 175.09 feet, thence along the 37.25 foot north offset of the spiral curve as shown on the aforementioned ODOT map, to the Point of Beginning.

Containing 878 Sq. Ft., lying in Lane County, Oregon.

The bearings for this description are based on the Oregon State Plane Coordinate System.

EXHIBIT E

Approximately 13 square feet, more or less, lying in Lane County, Oregon from the following property:

Being part of the property vested in Roth & Roth, LLC, as described in Rec. No. 2000-005337, Lane County Official Records, in Lane County, Oregon which is more particularly described as follows:

Beginning at a point lying 37.25 feet left of station "L6" 235+06.65 of the Pacific Highway from Oregon Department of Transportation map No. 6B-3-15, dated January, 1942, point also being the southwest corner of the aforementioned property, thence running along the west line of the aforementioned property North 1°45'46" East a distance of 2.74 feet, thence leaving said property line South 76°02'31" East a distance of 5.04 feet, thence South 12°31'18" West a distance of 2.56 feet to the north margin of the aforementioned highway, thence along said north margin North 77°28'44" West a distance of 4.53 feet to the Point of Beginning.

Containing 13 Sq. Ft., lying in Lane County, Oregon.

The bearings for this description are based on the Oregon State Plane Coordinate System.

EXHIBIT F

Approximately 2023 square feet, more or less, lying in Lane County, Oregon from the following property:

Being part of the property vested in Green Valley Endeavors, LLC, as described in Reception No. 2001-081198, Lane County Official Records, in Lane County, Oregon which is more particularly described as follows:

Beginning at a point lying 37.25 feet left of station "L6" 230+07.90 of the Pacific Highway from Oregon Department of Transportation map No. 6B-3-15, dated January, 1942, point also being the southwest corner of the aforementioned property, thence running along the west property line North 1°45'46" East a distance of 10.04 feet, thence South 78°46'58" East a distance of 26.16 feet, thence South 77°21'03" East a distance of 171.05 feet to the east property line, thence along East property line South 1°45'46" West a distance of 10.26 feet to the North margin of the aforementioned highway, thence North 77°28'44" West a distance of 197.24 feet to the Point of Beginning.

Containing 2023 Sq. Ft., lying in Lane County, Oregon.

The bearings for this description are based on the Oregon State Plane Coordinate System.

EXHIBIT G

Approximately 571 square feet, more or less, lying in Lane County, Oregon from the following property:

Being part of the property vested in Green Valley Endeavors, LLC, as described in Reception No. 2001-081187, Lane County Official Records, in Lane County, Oregon which is more particularly described as follows:

Beginning at a point lying 37.25 feet left of station "L6" 232+65.13 of the Pacific Highway from Oregon Department of Transportation map No. 6B-3-15, dated January, 1942, point also being the southeast corner of the aforementioned property, thence running along the north margin of the aforementioned highway North 77°28'44" West a distance of 60.00 feet to the southwest corner of the aforementioned property, thence leaving said highway margin along the west property line North 1°45'46" East a distance of 10.26 feet, thence leaving said west line South 77°20'57" East a distance of 9.30 feet, thence South 76°02'31" East a distance of 50.96 feet to the east property line, thence along East property line South 1°45'46" West a distance of 8.93 feet to the Point of Beginning.

Containing 571 Sq. Ft., lying in Lane County, Oregon.

The bearings for this description are based on the Oregon State Plane Coordinate System.

EXHIBIT H

Approximately 10 square feet, more or less, lying in Lane County, Oregon from the following property:

Being part of the property vested in Vernon L. Swenson and Leora V. Swenson, Trustees of the Vernon and Leora Swenson 2002 Family Trust Dated December 30,2002, recorded as document No. 2003-010092 Lane County Deeds and Records, which is more particularly described as follows:

Beginning at a point lying 30.00 feet left of station "E" 263+42.21 of the McKenzie Highway from Oregon Department of Transportation drawing No. 5B-36-8, point also being the southeast corner of the aforementioned property, thence along the south line along the arc of a 238.73 foot radius curve to the right having a central angle of 2°27'19" with a chord bearing North 84°48'08" West 10.23 feet a distance of 10.24 feet, thence leaving south line South 83°05'19" East a distance of 4.05 feet; thence North 84°26'46" East a distance of 10.29 feet to the east line of said property, thence along said east line South 1°27'57" West a distance of 1.92 feet to the Point of Beginning.

Containing 10 Sq. Ft. more or less, lying in Lane County, Oregon.

The bearings for these descriptions are based on the Oregon State Plane Coordinate System.

EXHIBIT I

Approximately 16 square feet, more or less, lying in Lane County, Oregon from the following property:

Being part of the property vested in Dutch Bros. L.L.C., as recited in Agreement and Declaration of Covenants, Conditions, Restrictions, Waiver and Release recorded as Instrument 2001-009870 Lane County Oregon Deed Records, in Lane County, Oregon which is more particularly described as follows:

Beginning at a point lying 95.00 feet left of station "L" 162+66.42 of the Pacific Highway from Oregon Department of Transportation map No. 6B-1-1, dated July, 1941, said point being the southwest corner of the aforementioned property, thence along the west line North 18°34'41" East a distance of 4.57 feet; thence leaving said line South 38°23'05" East a distance of 8.18 feet to the northerly margin of the aforementioned highway; thence along said Highway North 72°21'37" West a distance of 6.86 feet to the Point of Beginning.

Containing 16 Sq. Ft., lying in Lane County, Oregon.

The bearings for this description are based on the Oregon State Plane Coordinate System.