

W.S.A.

Memorandum Date: May 17, 2005
Order Date: June 1, 2005

TO: Board of County Commissioners

DEPARTMENT: Public Works

PRESENTED BY: Oliver Snowden, Director

AGENDA ITEM TITLE: ORDER/IN THE MATTER OF AUTHORIZING UP TO \$272,000 FROM 2004 AND 2005 FEDERAL SURFACE TRANSPORTATION PROGRAM (STP) FUNDS FOR THE REHABILITATION OF THE LOWELL COVERED BRIDGE AND CONSTRUCTION OF AN INTERPRETIVE SITE AND AMENDING THE FY06-FY10 CAPITAL IMPROVEMENT PROGRAM

I. MOTION

Move approval of Order.

II. AGENDA ITEM SUMMARY

The low bid for the Lowell Covered Bridge Interpretative Site exceeded the ODOT engineer's estimate. Should the Board authorize an additional \$272,000 in Federal STP funds for the project so that the Oregon Transportation Commission can award the contract?

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

Initial grant applications for the project occurred in 1997. Project funding of \$2,806,000 has been secured from three separate Federal Highway Administration (FHWA) programs, including \$1,030,000 from the County's Federal STP funds. Most recently, the Board considered the project on September 22, 2004, when it approved Order No. 04-9-22-5, which authorized use of \$500,000 of the County's STP allocation to cover funding shortfalls anticipated at that time.

B. Policy Issues

Federal STP funds must be used for specific transportation purposes, but have fewer restrictions than County Road Funds. The STP funds cannot be used for

maintenance activities, however.

County Road Funds cannot be used on the Lowell Covered Bridge or its approaches because the bridge is closed to traffic. Road Funds can be used on that portion of the interpretative site that functions as a highway rest area.

Following the vote to approve Order No. 04-0-22-5, some Board members indicated that they would not support additional County funds for this project.

C. Board Goals

This project is intended to preserve a piece of the County's cultural heritage, serve as a gateway to forest recreation areas in the County and become a destination attraction for community residents and visitors to Lane County. As such, it contributes to a strong regional economy, contributes to appropriate community development in the Lowell/Oakridge/Westfir corridor and protects the community's historic assets.

D. Financial and/or Resource Considerations

ODOT opened bids on April 28, 2005. The low bid of \$2,731,526.83, from 2-G Construction, was 19% over the engineer's estimate. When adding the anticipated engineering, administration and contingency costs, the amount needed to construct the project exceeded the available funding.

I am well aware of individual Board members' comments at the September 22, 2004 Board meeting. I am concerned, though, that this may be the last best opportunity to get this project built, and that rejecting bids, reducing scope and rebidding in the Fall will not guarantee that we will be any better off financially than we are today. Consequently, since the bid open, I have participated in a series of meetings to seek additional funding and to explore potential cuts to reduce the funding gap.

Both the Western Federal Lands Highway Division (WFLHD) and ODOT have pledged additional funds to partially offset higher project costs. The table below summarizes the resources available for this project, including the additional funding commitments.

Agency	Federal Funds Category	Committed prior to bid open	Committed since bid open	Total Committed
WFLHD	Forest Highway Enhancement	\$1,076,000	\$163,711	\$1,239,711
ODOT	Transportation Enhancement	\$700,000	\$122,180	\$822,180
Lane County	STP	\$1,030,000		\$1,030,000
Total		\$2,806,000	\$285,891	\$3,091,891

Since the initial grant awards, funds have been spent to prepare the project for bid. The Willamette National Forest spent \$24,000 developing the interpretive site conceptual plan, and ODOT and its consultants spent \$308,000 on preliminary engineering, environmental studies and permits, public review and interpretive exhibit design prior to the bid open. That leaves \$2,759,891 available for the construction phase.

As noted above, the grant funds must cover not just the construction bid, but the anticipated engineering, administration and 3.5% contingency costs as well. ODOT will not award the contract until it has assurances that all these anticipated costs will be covered. The table below compares available funding with the resource requirements needed to award the contract.

Low Bid	\$2,732,697
3.5% Contingency	\$95,644
Engineering	\$293,400
ODOT Admin	\$10,000
Amount needed for const.	\$3,131,741
Funds available for const.	\$2,759,891
OBEC reduced fees	(\$100,000)
Shortfall	\$271,850

In order help close the funding gap, OBEC Consulting Engineers has offered to lower its anticipated construction engineering fees by \$100,000, with the condition that the agreement could be amended later in the event that there are contract underruns that could offset some of OBEC's unreimbursed expenses. This leaves a funding shortfall of approximately \$272,000 that must be met before ODOT will award the contract to 2-G.

E. Analysis

We have been exploring ways to reduce the County's potential obligation, and have several possibilities. They are as follows:

1. Once a contract has been awarded, ODOT can negotiate with the contractor to reduce bid line items that appear to be unbalanced. Although this could result in some savings, the contractor is not legally obligated to agree to changes in bid prices. However, ODOT can (within reason) unilaterally delete bid items from the contract.

We propose that two items be deleted – the 2" water line and flagging. Deleting the water line saves \$80,789. Deleting contractor-provided flagging and using County-provided flaggers could save over \$130,000. The numbers are in the table below.

Item	Cost
County STP Funds	\$272,000
Delete water line	(\$80,789)
Delete contractor flagging	(\$152,640)
County provided flagging	\$20,000
Net County STP commitment	\$58,571

2. Although the Corps of Engineers' budget is stretched because of the Fern Ridge Dam reconstruction, the Lookout Point staff indicated a willingness to explore ways to provide some assistance for the Lowell Covered Bridge project, possibly by procuring benches, picnic tables and other appurtenances. This could save \$20,000 to \$30,000. There could be additional savings if the Corps could procure the vault toilet. There may be ways that the Corps could help defray the County's wetland mitigation expenses associated with the project as well. Any Corps participation will require approval of higher level management and, until that occurs, there is no binding commitment for participation.

3. The Mayor of Lowell has scheduled a special meeting of the Budget Committee to consider foregoing \$60,000 of Lowell's County/City Road Partnership (CCRP) payments over the next two years. This would allow the County use Lowell's CCRP money on a project that otherwise would have used STP money. By the June 1st agenda date, we should know the Budget Committee's decision.

4. State Parks and Lowell have prepared a grant application to the State Marine Board (OSMB) for grant funds to build a transient boat dock in association with the interpretive site. This grant application will come to the Board for approval on June 1st. If the transient dock is constructed, the OSMB may be a source of funds for construction of the water line at later date.

F. Alternatives/Options

1. Adopt Order authorizing allocating up to \$272,000 from the County's Federal STP allocation, and support the OTC contract award.

2. Do not authorize additional allocation of County funds, which would force ODOT to reject all bids and rebid the project, with reductions, in the Fall.

3. Provide other direction.

V. TIMING/IMPLEMENTATION

If the Board agrees to allocate the additional STP funds, there are still two additional hurdles that must be cleared before the project can proceed.

First, ODOT Standard Specifications require that if the agency intends to award a

contract, it must do so within 30 days of the bid open -- which in this case was April 28th. Because we cannot make the specified time for the award, the contractor must be willing to honor his bid until the award can be made. If the delay is only a short time, this should not be a problem.

Second, the ODOT Contracts unit intends to recommend that all bids be rejected and the project be rebid in the Fall. They reason that it is not in the public interest to award the contract because the low bid was so far over the engineers estimate, because certain line items in the bid were unbalanced, because the rock costs were unreasonably higher than the estimate and because there were only two bidders. I disagree with this recommendation and believe that there is a legitimate rebuttal to each of these issues. As I write this cover memo, I am trying to discuss those with Tom Lauer, State Roadway Engineer, who will ultimately present the recommendation to the OTC. The key issue now seems to be the availability of a cheaper rock source. ODOT is in the process of researching that. I can discuss these issues in more detail at the Board meeting.

WFLHD staff, Willamette National Forest staff, OBEC and some ODOT staff also disagree with the recommendation to reject all bids. In fact, WFLHD indicated that it has experienced a 15-20% increase in bid prices on recent Forest Highway projects over what they had expected based on historic prices.

VI. RECOMMENDATION

Move approval of the Order.

VII. FOLLOW-UP

I will carry the Board's decision to ODOT. If the Order is approved, we will amend the existing IGA with ODOT. Nevertheless, the OTC will make the final determination of whether to award the contract or reject all bids.

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO.

IN THE MATTER OF AUTHORIZING UP
TO \$272,000 FROM 2004 AND 2005
FEDERAL SURFACE
TRANSPORTATION PROGRAM (STP)
FUNDS FOR THE REHABILITATION
OF LOWELL COVERED BRIDGE AND
CONSTRUCTION OF AN
INTERPRETATIVE SITE AND
AMENDING THE FY06-FY10 CAPITAL
IMPROVEMENT PROGRAM

WHEREAS, Lane County has secured \$1,776,000 in grants from Federal Highway Administration funds for the rehabilitation of the Lowell Covered Bridge and construction of an interpretative site; and,

WHEREAS, through Order 02-11-13-01 and Order 04-9-22-5 the Board of Commissioners authorized the use of \$1,030,000 from its allocation of federal Surface Transportation Program funds for the project; and,

WHEREAS, ODOT opened bids on April 28th, 2005 and the low bid by 2G Construction exceeded the engineers estimate; and,

WHEREAS, when a 3.5% contingency, anticipated engineering costs and ODOT administration costs were added to the low bid, the cost of construction exceeded the available funding for the project; and,

WHEREAS, the Western Federal Lands Highway Division and ODOT have offered a total of \$285,891 in additional federal funding for the project; and,

WHEREAS, OBEC Consulting Engineers has offered to lower its construction engineering fees by \$100,000 to reduce project costs; and,

WHEREAS, the remaining anticipated funding shortfall for the project is approximately \$272,000; and,

WHEREAS, ODOT must have a funding commitment sufficient to cover all anticipated expenses prior to awarding the construction contract to 2G; and,

WHEREAS, following award, ODOT can make changes to the contract that could potentially reduce the actual funding shortfall from \$272,000 to approximately \$60,000; and,

WHEREAS, funding commitments notwithstanding, the Oregon Transportation Commission (OTC) could choose to reject all bids and rebid the project in the Fall

of 2005; NOW

BE IT ORDERED that \$272,000 from Lane County's 2004 and 2005 STP allocation be authorized for use on the Lowell Covered Bridge Interpretative Site, and the FY06 to FY10 Capital Improvement Program be amended accordingly; and, BE IT

FURTHER ORDERED that County staff work with partner agencies to seek ways to reduce the County's additional obligation; and, BE IT

FURTHER ORDERED that a letter be sent to the OTC supporting award of a contract to 2G Construction for construction of the project, rather than rejecting all bids.

DATED this ____ day of _____ 2005

Chair, Lane County Board of Commissioners

APPROVED AS TO FORM

Date 5-24-05 lane county



OFFICE OF LEGAL COUNSEL