

Memorandum Date: July 23, 2010, Supplement 3  
 Meeting Date: July 27, 2010

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**TO:** Board of County Commissioners

**DEPARTMENT:** Public Works

**PRESENTED BY:** Celia Barry, Transportation Planning

**AGENDA ITEM TITLE:** IN THE MATTER OF AMENDING ORDER NO. 10-5-12-1 TO INCLUDE THE I-5 AT COBURG PROJECT IN THE PUBLIC WORKS CAPITAL IMPROVEMENT PROGRAM

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This item was originally scheduled for a June 16, 2010 public hearing. That meeting was pulled off of the agenda and eventually placed on the July 7, 2010 agenda as a work session. At that meeting, the Board directed staff to remove all references to Phase II of the project, including the bridge replacement and east side improvements, associated access rights purchases, right of way purchases, and funding references. Staff was directed to return on July 28, 2010 with an associated Board Order, Intergovernmental Agreements (IGAs), the CIP, and related materials.

The Board also asked staff to identify the landowners who will be paid for right-of-way acquisitions and access control, for which \$6 million is identified in the CIP for right-of-way acquisition, and to clarify whether the right-of-way being acquired was planned for road improvements or access rights purchases.

Finally the Board asked staff to cease or defer working on related tasks such as finalizing the access management and construction IGAs and processing the plan amendment and zone change necessary to implement the Coburg Interchange Area Management Plan (IAMP).

On July 14, 2010 the Board provided additional direction for the County Administrator to come back with a "road map and time lines" to delete any mention of Phase II and any funding for Phase II. Transportation Planning staff assembled this information on his behalf. Commissioner Sorenson indicated he intends to take this information to members of MPC in preparation for requesting support for a motion to endorse the plan for the amendments, and schedule for the amendments, at the August 12 MPC meeting. The Board also requested that staff draft a letter from MPC to FHWA that requests flexibility regarding the MTIP as these amendments are processed.

On July 21, 2010 Commissioner Handy contacted staff to say that no Board Order dealing with county matters concerning I-5@ Coburg would be adopted until MTIP and RTP amendments were taken care of. Therefore no Board Orders are included in this material.

**1. Landowner Names and Payments for Right-of-way and Access**

For your July 14 meeting, county staff reported that ODOT staff indicated this is confidential information and that specific amounts have not been negotiated. ODOT staff subsequently attempted to obtain additional information and provided the details about estimated right-of-way expenditures in Attachment 1.

County staff also consulted with Lane County Public Works Engineering, Right-of-Way section

regarding the specific statute that regulates information related to right-of-way purchase negotiations. Attachment 2 provides the statutory reference and language. It appears that in some cases providing this information in public is permissible, but not required unless “. . . the public interest requires disclosure”. ODOT plans to be on hand on July 27 for any questions about this matter.

## 2. Deletion of Phase II

The following table lists the documents that the Board directed staff to prepare a “road map with time lines”, to delete references and funding for Phase II of the I-5 at Coburg project, a brief statement of the nature of the amendments, the jurisdictions responsible, process requirements, and estimated processing time.

Document	Amendment(s)	Jurisdiction	Process	Minimum Time
RTP, Table 1a- Financially Constrained	Change description to “Local Street network improvements west of I-5” and change funding amount to \$15.6 million	MPO (with state and federal approvals)	See Note 1 below	By September 9 or October 14, 2010
RTP, Table 1b- Illustrative	Delete Phase II	MPO(with state and federal approvals)	See Note 2 below	See Note 2 below
MTIP	An amendment that explicitly states the project only includes Improvements west of I-5 would be possible. ODOT recently processed a 2008-2011 STIP amendment to delete east side components and to designate ODOT as providing the local match for the earmark. (The amendment also places funding for west side access control purchases in another project number so that work can move forward now).	MPO(with state and federal approvals)	These amendments would be administrative and are expected to be presented at TPC for approval on August 2. If the Board of Commissioners wishes to provide the local match, the change designating ODOT as providing the match can be deleted.	By August 2, 2010
Lane County CIP	The CIP amendment to delete all references to Phase II and its costs is ready for Board consideration.	Lane County	The RAC will be informed of recent CIP activity on July 28. A BCC public hearing is recommended.	August 18
Facility Permits	Not applicable. The Construction IGA provides direction on facility permits. See Attachment 3	---	Facility permits will be issued pursuant to the Construction IGA	---
Match IGA	Amend IGA to delete all references to Phase II work. An amended IGA is being reviewed by ODOT now. Or, terminate IGA.	Lane County, ODOT	BCC approves CAO to execute the IGA, then ODOT completes a similar process	ODOT process is estimated to be 6 months, per Attachment
Construction	Amend IGA to delete all	Lane	Same as above	

Document	Amendment(s)	Jurisdiction	Process	Minimum Time
IGA	references to Phase II or Phase II work and specify facility permits to only cover west side. An amended IGA is being reviewed by ODOT now.	County, ODOT		4. Termination of Match IGA requires 30 days notice.
Access IGA	Amend IGA to delete all references to Phase II or Phase II work. An amended IGA is being reviewed by ODOT now.	Lane County, ODOT, Coburg	Same as above, plus City of Coburg must review and approve.	
Coburg IAMP	Delete references to Phase II Improvements	Lane County, ODOT, Coburg	New analysis and state Refinement Planning process, City and County Planning Commission work sessions and hearings, City and County elected official work sessions and hearings. See Note 3 below.	Estimated 2 years (if feasible)

**Note 1 - RTP Financially Constrained Amendment Process and Time Line**

**Process:** Analysis, public involvement (up to and including comment period, hearing, open house), CAC recommendation (optional, pending MPC input), TPC recommendation, MPC approval

**(Minimum) Time Line per MPO staff (MPO staff plan to be on hand on July 27 to answer questions):**

- Request to TPC for recommendation (August 2, 2010)
  - If recommended by TPC, initiate public process, including:
    - Public hearing (August 12, 2010)
    - CAC meeting and recommendation (September 23, 2010 - CAC is on recess in August) (optional, pending MPC input)
    - Public Open House (Sept. 2010)
  - Minimum 30-day comment period (extended through September 30, 2010 to include CAC meeting)
  - Discussion at MPC (August 12, 2010)
- Request for MPC approval (October 14, 2010)

**Risks of Delaying Adoption of MTIP**

The risk is a lapse in federal funding, resulting in project and funding delays. Once adopted by MPC, there is additional processing time through ODOT, OTC, the Governor's office, and FHWA. If federal funding lapses, as an example, LTD would need to cover capital funding with operational costs at a time when their budget is severely challenged.

**Note 2 - RTP Illustrative Amendment Process and Time Line**

**Process:** See Note 1 process.

**Time Line:** MPO staff indicate that potentially this amendment could be processed concurrently with the related Financially Constrained amendment. However this would be highly irregular because RTP amendments typically do not precede land use planning, analysis, and actions that result in the RTP project. Coburg's TSP and the IAMP would typically be amended prior to changing the RTP accordingly. So, if land use planning is to precede de-programming the project from the federal RTP, then an estimated 2 year process for the IAMP to be amended would need to occur prior to the RTP amendment.

**Note 3 - Coburg IAMP Amendment Process and Time Line**

May be unfeasible because currently the IAMP documents a need for the project. New analysis will not result in a different conclusion other than updated population numbers, which are likely to demonstrate a greater need than in the current analysis.

**Acronyms**

BCC - Board of County Commissioners

CAO - County Administrator

CIP - Capital Improvement Program

FHWA - Federal Highway Administration

IAMP - Interchange Area Management Plan

IGA - Intergovernmental Agreement

MTIP - (CLMPO) Metropolitan Transportation Improvement Program

RTP - (Central Lane Metropolitan Policy Organization (CLMPO)) Regional Transportation Plan

**3. FHWA Letter**

A draft of a letter for MPC consideration is attached.

**4. Recommendation**

Staff recommends that the Board of Commissioners consider any comments from the Roads Advisory Committee and holding a public hearing on the CIP regarding deletion of Phase II. Lane Manual 15.575(2) states the Board "may" hold a public hearing. Historically, it is staff's understanding that the Board has always considered a recommendation from the RAC and held public hearings on Capital Improvement Program amendments.

Staff has no other recommendations regarding this material.

**Attachments**

1. July 15, 2010 Email from Sonny Chickering regarding anticipated right-of-way expenses
2. July 19, 2010 Email from Frank Simas, LCPW Engineering, Right-of-Way Acquisitions, regarding ORS requirements about disclosure of landowner payments for right-of-way acquisitions.
3. July 23, 2010 Email from Brad Lemhouse, LCPW Engineering, regarding facility permitting
4. July 16, 2010 Email from Laura Cooley, ODOT, regarding IGA amendment processing
5. Draft letter from MPC to FHWA

**BARRY Celia**

**From:** CHICKERING Sonny P [Sonny.P.CHICKERING@odot.state.or.us]  
**Sent:** Thursday, July 15, 2010 5:21 PM  
**To:** DWYER Bill J; FLEENOR Bill A; HANDY Rob M; SORENSON Pete; STEWART Faye H  
**Cc:** SPARTZ Jeff R; BARRY Celia; SIMAS Frank D; CRAWFORD Savannah (ODOT)  
**Subject:** ROW Budget Information - I-5/Coburg Interchange Project

Commissioners - In response to your July 7 requests for additional information regarding anticipated right-of-way expenses for this project, I was able to obtain the following information on the morning of July 14. The topics did not come up during your discussion on the 14th, so I am providing it to you now:

Commissioner Fleenor: The current budget for acquisition of access control rights and land on the east side of the freeway is \$165,000, to be paid to multiple property owners. Your question was how much savings would the citizens of Lane County realize should the east side work (these right-of-way expenses) be removed from the project. The answer is 10.27% (the local match) of the \$165,000 budget, or \$16,945.50.

Commissioner Dwyer: As shown in the agenda materials on July 14, the current budget for right-of-way expenditures on the west side of the freeway only is \$3,800,000. A rounded breakdown of the purpose of those monies is as follows:

Land	\$1,800,000
Improvements	\$ 425,000
Damages	\$ 500,000
Relocation	\$ 100,000
Demolition	\$ 105,000
Personnel Cost (ODOT)	\$ 65,000
Misc. Costs	\$ 5,000
Legal Fees and Contingencies	<u>\$ 800,000</u>
<b>Total</b>	<b>\$3,800,000</b>

These dollars would be paid to multiple property owners, with the bulk going to the four most impacted (Mary J. Stevenson Trustee, Coburg 5 LLC, Kilcrease & Murphy Trustee, and Pape' Properties LLC) in no particular order.

Please be assured that Celia Barry did not have this information at the time she prepared your Board packet materials, or at the time you asked her for it, just prior to the Board discussion. She did not learn that I had the materials until my arrival at the Board meeting.

Sonny P.A. Chickering  
 Oregon Dept. of Transportation  
 Area 5 (Lane County) Manager  
 541-736-9611

07/16/2010

**BARRY Celia**

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**From:** SIMAS Frank D  
**Sent:** Monday, July 19, 2010 8:32 AM  
**To:** BARRY Celia  
**Subject:** RE: R/W acquisition confidentiality requirements

Celia: The Statute is ORS 192.501(6), which says "Information relating to the appraisal of real estate prior to its acquisition". This section says it is "exempt unless the public interest requires disclosure in the particular instance. Also, this could relate to the exemptions provided under 192.501(1) which referring to records of a public body pertaining to litigation to which a public body is a party if the complaint has been filed or if the complaint has not been filed, if the public body shows that such litigation is reasonably likely to occur.

Marc says the intent of the statute is that the public agency is not required to disclose details relating to a pending acquisition, and it's the policy of ODOT not to disclose it. I don't see how it would be in their advantage to do so.

**Frank Simas**  
**Right of Way Manager**  
**Lane County Public Works**  
**3040 N. Delta Highway**  
**Eugene, OR 97408**  
**(541) 682-6980**

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**From:** BARRY Celia  
**Sent:** Thursday, July 15, 2010 5:05 PM  
**To:** SIMAS Frank D  
**Cc:** MORGAN Bill F  
**Subject:** R/W acquisition confidentiality requirements

I'm being asked for information for the I-5 @ Coburg project regarding payments to landowners for r/w and access rights. ODOT indicated this would be considered confidential and will not provide it. The commissioner asking for it doesn't believe it.

Would you be able to provide me what the statutory requirements are regarding this issue?

Thanks so much in advance for your help.

Celia Barry, Manager  
Lane County Public Works  
Transportation Planning & Traffic  
3040 N. Delta Hwy.  
Eugene, OR 97408  
541.682.6935

**BARRY Cella**

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**From:** LEMHOUSE Brad  
**Sent:** Friday, July 23, 2010 9:43 AM  
**To:** BARRY Cella  
**Cc:** SIMAS Frank D; MORGAN Bill F  
**Subject:** RE: I-5 @ Coburg facility permits

No facility permits have been issued for this project, nor has any applications been received. As you know County staff has been working with ODOT staff on an on-going basis during the preliminary engineering on this project. ODOT will need to obtain a facility permit before starting their work on Pearl Street and Coburg Industrial Way. For the proposed Coburg / I-5 improvements, since we are already working on a State/County/City IGA the best way for the BCC to direct staff regarding facility permit issuance would be through the IGA. As long as there are no substantial changes to the latest plans, a facility permit should be issued within two weeks of application. Please let me know if you have any further questions.

*Brad Lemhouse, P.E.*  
Permit Supervisor  
Lane County Public Works  
(541) 682-6928, FAX (541) 682-8500  
brad.lemhouse@co.lane.or.us

-----Original Message-----

**From:** BARRY Cella  
**Sent:** Monday, July 19, 2010 2:13 PM  
**To:** LEMHOUSE Brad  
**Cc:** SIMAS Frank D; MORGAN Bill F  
**Subject:** I-5 @ Coburg facility permits

Hi Brad,

Last week the BCC asked for a time line on several documents associated with the above project, including facility permits. To my knowledge there are no facility permits and no application for them. The Board wants Phase II, or all work east of the freeway, to be eliminated. As part of the facility permit process, how would we ensure this direction is followed?

I'd like to include your response in the Board packet for the meeting that will occur 7/27 (or possibly 7/28). Specifically they want a time line for ensuring all documents associated with the project meet their direction, so perhaps you could talk about when we might expect the facility permit application to come in (if we will process the project improvements under a facility permit), how long it would take to process it from the date of application, and how we would ensure that only phase I east of the freeway is permitted under the facility permit.

I hope to have the board packet finalized before Friday. Thanks in advance for your help.

Cella Barry, Manager  
Lane County Public Works  
Transportation Planning & Traffic  
3040 N. Delta Hwy.  
Eugene, OR 97408  
541.682.6935

**BARRY Celia**

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**From:** COOLEY Laura I [Laura.I.COOLEY@odot.state.or.us]  
**Sent:** Friday, July 16, 2010 1:55 PM  
**To:** BAJRACHARYA Shashi  
**Cc:** STEELE Marta L; STICH Candice A (SMTP); BARRY Celia  
**Subject:** RE: I-5 Coburg IGA's Request by Lane County to re-write/amend

Shashi-  
Agreements and any amendment to an agreement undergo the same review process. I would estimate an amendment to 23,602 or changes to 25,380 and/or 26,650 would take about six months.

Laura

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**From:** BAJRACHARYA Shashi [mailto:Shashi.BAJRACHARYA@co.lane.or.us]  
**Sent:** Friday, July 16, 2010 1:24 PM  
**To:** COOLEY Laura I  
**Cc:** STEELE Marta L; STICH Candice A; BARRY Celia  
**Subject:** RE: I-5 Coburg IGA's Request by Lane County to re-write/amend

Thanks Laura and Marta. I will work on the documents to delete any reference to Phase II.

How soon can we execute a revised IGA if the Board decides to make any change? Your response to this question would help us provide an estimated timeline to Board. Appreciate your help in this matter. Thanks,

*Shashi Bajracharya, P.E.*

Engineering Analyst  
Transportation Planning Division  
Lane County PWD,  
3040 N Delta Highway  
Eugene, OR 97408  
☎(541) 682-6932  
☎(541) 682-8554

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**From:** COOLEY Laura I [mailto:Laura.I.COOLEY@odot.state.or.us]  
**Sent:** Friday, July 16, 2010 1:11 PM  
**To:** BAJRACHARYA Shashi  
**Cc:** STEELE Marta L  
**Subject:** RE: I-5 Coburg IGA's Request by Lane County to re-write/amend

Attached are the Word version of the two agreements I have.

07/23/2010



August 12, 2010

Mr. Satvinder Sandhu  
Federal Highway Administration  
Salem, OR

Dear Mr. Sandhu:

As Chair of the Central Lane Metropolitan Planning Organization, Metropolitan Policy Committee, I am writing to inform you of the status of CLMPO MPC adoption of the 2010-2013 Metropolitan Transportation Improvement Program.

We considered adopting the 2010-2013 MTIP at our July 2010 monthly meeting, but it became apparent that one of the projects in the MTIP needs additional amendments before it is ripe for adoption. That is the I-5 @ City of Coburg Interchange Project. Lane County elected officials are supportive of safety and traffic flow modernization improvements west of the freeway but concerned about other improvements planned for east of the freeway and replacement of the bridge structure (known as Phase II improvements). While there is no federal funding (other than \$150,000 for right-of-way and access rights purchases, which ODOT is in the process of removing) in the 2008-2011 MTIP for a Phase II project, there is reference to future phases of the project. Lane County has expressed concern that any reference to a Phase II in the various documents surrounding the project may result in future actions that attempt to bind them to be supportive of a future project at the interchange. Thus they initiated a number of steps to alter the documents associated with this project.

We want to assure you that we are working cooperatively on this effort so that we can adopt the 2010-2013 MTIP in a timely manner. We anticipate that MPC will be able to come to agreement on the amendments, process map and time line for the revisions by September 2010 at the latest. We are requesting flexibility from FHWA in support of our local processes as we work through these important issues.

Sincerely,

Alan Zelenka  
Eugene City Councilor, Ward 1  
Chair, Central Lane Metropolitan Planning Organization