

W. 10.d.

Memorandum Date: June 29, 2010
Meeting Date: July 7, 2010

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

I. MOTION

Staff recommendation is to move approval of the Order (Attachment 1).

II. AGENDA ITEM SUMMARY

The Board is asked to approve the attached Board Order reinstating the I-5 at Coburg Interchange project match in the 2011-2015 Capital Improvement Program (CIP).

This material replaces the materials provided for the June 16 Board of Commissioners meeting, which were incorrectly dated as Memorandum date April 26, 2010 and Meeting Date May 12, 2010. Other changes from the June 16 materials are:

- the Board Order has been updated to be dated in July rather than June;
- there are new attachments from the Oregon Department Of Transportation (ODOT, Attachment 3), the City of Coburg (Attachment 4), and Department of Land Conservation and Development (DLCD, Attachment 5), that became available last week; and
- this cover memo is updated regarding the new information in the attachments and history.

Staff also requests confirmation that all associated Intergovernmental Agreements (IGAs) may be executed by the County Administrator, as specified in the attached Board Order, and direction of continued processing of a plan amendment and zone change to implement the Coburg Interchange Area Management Plan (Coburg IAMP). This includes the IGA attached to Board Order 10-6-23-14 that is anticipated to follow this item on your agenda for July 7, 2010, and an IGA for construction in the County Road right-of-way of Pearl Street and Van Duyn Road. The Coburg IAMP implementation materials will come before the Board after Planning Commission action, which was put on hold pending your action on this item.

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

A majority of the Board expressed concern regarding "regional commercial development" in the interchange area due to DLCD comments submitted into the record for the Coburg IAMP after the City Council took action adopting the IAMP. After directing staff to make changes

to the Coburg IAMP based upon information from DLCD, the Board adopted the Coburg IAMP on October 21, 2009 in a different version than adopted by the City. The Board's action did not, and does not, have jurisdiction within the City limits in the interchange area. ODOT determined that the different documents were consistent given jurisdictional differences, and continued moving forward with the project's Phase I improvement design.

On May 12, 2010 the Board held a public hearing and discussed the matter of adopting the County's 2011-2015 CIP. Staff was asked to come back on May 19, 2010 for a continued public hearing, and to provide responses to issues raised, particularly on the CIP proposed \$1.03 million allocation for the Coburg I-5 Interchange Area Improvement project. Testimony was provided by City of Coburg staff, ODOT staff, and a property owner near the Interchange.

On May 19, 2010, the Board requested staff return on June 16, 2010 with options regarding the I-5 @ Coburg match funding that was deleted that day from the Public Works CIP, including the option to cancel the IGA that the County executed with the ODOT. That IGA committed Lane County to provide a \$1,030,000 match for the federal earmark for the project (the IGA is in Attachment 2). The Board also moved to hold a work session and public hearing at a time certain, 1:30, June 16, 2010, to expressly hear from the principals in the matter, being representatives from ODOT, DLCD, and the City of Coburg.

The Board pulled this item from the June 16 Agenda and scheduled it for June 23, subsequently pulling it from that agenda and scheduling it without a public hearing, for July 7, 2010.

On June 21, 2010 ODOT sent electronic versions of Attachment 3 to the recipients shown in the attachment. On June 24, 2010 the City of Coburg and DLCD provided Lane County staff with copies of Attachments 4 and 5, respectively. These attachments solidify the City's position, and now DLCD's agreement, that regional commercial development cannot occur in the interchange area without Lane County co-adoption of an IAMP amendment.

Attachment 6 provides project information including costs and revenues sources. This attachment consists of Pages 45-46 of the CIP document that were deleted prior to Board adoption of the CIP on May 19, 2010.

B. Policy Issues

The Lane County Transportation System Plan, Goal 24 provides guidelines on Road Fund uses: *Use the County Road Fund effectively by following the priorities established in the 1991 Road Fund Financial Plan (updated 1995).* According to this policy, maintenance, and preservation of the County Roads and Bridges and providing a safe roadside environment, are the first priorities (Core Programs). Modernization and improvement of County Roads is the next tier of priority (Enhanced Program).

C. Board Goals

The Board is being asked to allocate Road Fund financial resources through the Capital Improvement Program. Two goals from the Strategic Plan, page 13, are relevant:

- *Contribute to appropriate community development in the areas of transportation and telecommunications infrastructure, housing, growth management, and land development.*
- *Protect the public's assets by maintaining, replacing or upgrading the County's investments in systems and capital infrastructure.*

D. Financial and/or Resource Considerations

The County's capital improvement program is mostly funded through the Road Fund. Currently, the Road Fund includes revenues from timber replacement receipts, state highway gas tax, and other user fees.

E. Analysis

Extensive information about the I-5 at Coburg Interchange project was provided at the May 19 meeting and previously during adoption of the associated Coburg IAMP.

Options for the Board regarding the match that was deleted from the CIP prior to its adoption on May 19, 2010 by Order 10-5-12-1 are listed below in Section IV.

Lane County has been working with Coburg and ODOT on this effort since 2004 and prior to that on previous versions of this project. Cancellation of the IGA may result in long term repercussions to Lane County with regard to partnering with ODOT on other projects, obtaining matching funds for County projects for which we are seeking earmarks, such as Territorial Highway, prioritizing projects for funding, and formation of an Area Commission on Transportation.

If the Board decides to leave the I-5 at Coburg project out of the CIP and cancel the IGA, ODOT staff indicate they are likely to supply the match. However, losses in project funding may result, because ODOT staff indicates they may pursue "other remedies" to make up the unanticipated loss in Region 2 funding.

Whether or not the Board decides to cancel the IGA, staff requests direction on proceeding with the following items:

1. Access Management IGA - this item first came to the Board as a Consent Calendar item for your June 9, 2010 meeting. It is Exhibit A to Board Order 10-6-23-14.
2. Project Construction IGA - since the Phase I improvements are on County Roads an IGA is necessary to complete construction. We are in the process of finalizing this IGA.
3. Coburg IAMP Implementation Plan Amendment and Zone Change - this item would incorporate the Coburg IAMP by reference into the TSP, and provide an overlay zone and code provisions to implement the IAMP. The provisions would be consistent with the version of the IAMP that the Board adopted.

IV. Alternatives/Options

1. Adopt the attached Board Order including the I-5 at Coburg project in the CIP.
2. Do not adopt the Board Order, and provide direction to cancel the IGA committing Lane County to providing the match.

V. TIMING/IMPLEMENTATION

The Board may amend the CIP at any time as needed to respond to new information. County

Termination of the IGA, page 3, requires 30 days written notice, with delivery by certified mail or in person. Termination must occur prior to the award of a construction contract for the Project. The project has not gone out to bid, but right-of-way acquisition is scheduled to begin within one or two months and design plans are at least 80 percent complete.

VI. RECOMMENDATION

Option 1.

VI. FOLLOW-UP

No follow up is necessary at this time.

VII. ATTACHMENTS

1. Board Order
2. ODOT-Lane County Intergovernmental Agreement
3. ODOT June 21, 2010 letter to Chair Fleenor regarding County match commitment
4. City of Coburg June 16, 2010 Code Interpretation
5. DLCD June 24, 2010 letter to Chair Fleenor endorsing Coburg Code Interpretation
6. CIP I-5 @ Coburg Project Information

BEFORE THE BOARD OF COMMISSIONERS OF LANE COUNTY
STATE OF OREGON

ORDER NO. 10-6-23-13

) 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

WHEREAS, the Board of County Commissioners (Board) has adopted a process as outlined in Lane Manual 15.575 for annual review and development of a Five-Year Public Works Capital Improvement Program (CIP); and

WHEREAS, a recommended Five-Year CIP has been developed in keeping with that process, including staff analysis, citizen involvement, the conducting of a public hearing on February 24, 2010 by the Roads Advisory Committee, and deliberation and a recommendation on the Capital Improvement Program by the Roads Advisory Committee on April 28, 2010; and

WHEREAS, the Board held a public hearing on May 12, 2010 on the recommended Public Works Five-Year CIP; and

WHEREAS, the Board continued the public hearing to May 19, 2010 to take additional testimony; and

WHEREAS, the Board adopted the CIP after removing \$1.03 million in matching funds previously allocated for the Interstate 5 at Coburg Interchange (I-5 at Coburg) project, and directed staff to return on June 16, 2010 for a work session and public hearing to consider the matter further; and

WHEREAS, the Board discussed and considered public testimony, staff analysis, and the recommendation of the Roads Advisory Committee; now, therefore, it is hereby

ORDERED, that the CIP as adopted by Board Order No. 10-5-12-1 be amended to include the I-5 at Coburg project; and be it further

ORDERED, that the County Administrator be delegated authority to execute all contracts and agreements in connection with the FY 2010/11-FY 2014/15 CIP in accordance with the terms of LM 21.145; and, be it further

ORDERED, that staff pursue all necessary actions to ensure timely construction of projects scheduled for FY 2010/11; and, be it further

ORDERED, that staff perform preliminary design activities, acquire right-of-way, prepare planning actions and permit applications necessary to ensure that projects scheduled for FY 2010/11 through FY 2014/15 remain on schedule; and, be it further

ORDERED, that the cost of such actions and preparations, including any damages, be paid from the County Road Fund or in any manner permitted by law as authorized by the Department of Public Works or as further authorized by the Board of County Commissioners.

Effective date: _____ day of July, 2010.

APPROVED AS TO FORM

Date _____ Lane County

OFFICE OF LEGAL COUNSEL

William A. Fleenor, Chair
Lane County Board of Commissioners

April 23, 2008

Misc. Contracts and Agreements
No. 23,602

**COOPERATIVE IMPROVEMENT AGREEMENT
HIGH PRIORITY PROJECT
I-5 Coburg Interchange
Lane County**

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State," and LANE COUNTY, acting by and through its board of directors, hereinafter referred to as "Agency."

RECITALS

1. Interstate 5 (I-5), is a part of the state highway system under the jurisdiction and control of the Oregon Transportation Commission.
2. By the authority granted in ORS 190.110, 366.572 and 366.576, State may enter into cooperative agreements with counties, cities and units of local governments for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.
3. Under provisions of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), which provides authorization for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, State is required to set aside federal funds over the five years of SAFETEA-LU for High Priority Projects.
4. By the authority granted in ORS 366.425, State may accept deposits of money or an irrevocable letter of credit from any county, city, road district, person, firm, or corporation for the performance of work on any public highway within the State. When said money or a letter of credit is deposited, State shall proceed with the Project. Money so deposited shall be disbursed for the purpose for which it was deposited.

NOW THEREFORE, the premises being in general as stated in the foregoing recitals, it is agreed by and between the parties hereto as follows:

TERMS OF AGREEMENT

1. Under such authority, State and Agency agree that this Agreement serves as a funding agreement to identify the funding obligations for the I-5 Coburg Interchange project that will replace the structure over I-5 with a modern structure of appropriate width to provide adequate bicycle and pedestrian facilities; realign ramps as needed; signalize the southbound ramp terminal intersection; realign a local road south of the

Key No. 14649

5-22-09

Lane County/ODOT
Agreement No. 23602

interchange to improve intersection spacing standards on the crossroad; and improve access control on the north side of the interchange by acquiring access control and developing a system of frontage and or local roadways, hereinafter referred to as "Project."

2. The Project will be financed at an estimated cost of \$20,700,000 in State, Federal and Agency funds. The Project shall be conducted as a part of the High Priority Projects authorized under SAFETEA-LU. The High Priority Projects funds available for the Project are estimated at \$9,000,000 with Agency providing the match for the federal funds. The federal pro-rata funding for the Project is 89.73 percent and provided federal funds will be subject to annual obligation limitations and possible rescissions. The funds shall be used for all phases of work. In the event the actual cost of the Project exceeds the estimate, State shall, at its sole discretion determine whether to provide additional funds to the Project or to modify the Project as necessary to keep costs within the estimate.
3. The High Priority Projects Numbers and Project Descriptions are as shown in the table below:

High Priority Projects Number	Project Description
1526	Interstate 5 Interchange at City of Coburg
4704	For Interstate 5 interchange, City of Coburg

4. The federal funding for this Project is contingent upon approval by the Federal Highway Administration (FHWA). Any work performed prior to acceptance by FHWA will be considered nonparticipating and paid for at Agency expense. The Catalog of Federal Domestic Assistance (CFDA) number for this Project is 20.205.
5. The term of this Agreement shall begin on the date all required signatures are obtained and shall terminate upon completion of the Project and final payment or ten calendar years following the date all required signatures are obtained, whichever is sooner.

AGENCY OBLIGATIONS

1. Agency shall upon notification from State no more than 60 days prior to bid advertisement for Project that such advertisement will occur and Agency contribution will be needed, sign an irrevocable limited power of attorney to access the Local Government Investment Pool account of Agency in the amount of \$1,030,000 for the Project. Such contribution being Agency's required match for the \$9,000,000 federal earmark. Agency certifies that throughout the term of this Agreement sufficient funds shall be available in its account to cover its contribution. In the event such

Lane County/ODOT
Agreement No. 23602

funds are not available in its account, ODOT shall withhold Agency's proportional share of Highway Fund distribution in an amount equal to Agency's contribution under this Agreement.

2. All employers, including Agency, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required workers' compensation coverage unless such employers are exempt under ORS 656.126. Agency shall ensure that each of its subcontractors complies with these requirements.
3. Agency acknowledges and agrees that State, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Agency which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after completion of Project. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by State.
4. Agency's Project Manager for this Project is Bill Morgan, or designee, 3040 North Delta Highway, Eugene, Oregon, 97408-1696; telephone (541) 682-6990.

STATE OBLIGATIONS

1. State shall, no more than 60 days prior to bid advertisement for Project, provide Agency notice of such advertisement and forward to Agency a request to sign an irrevocable limited power of attorney to access the Local Government Investment Pool account of Agency for \$1,030,000, said amount being equal to Agency's contribution towards Project. Requests for additional deposits shall be accompanied by an itemized statement of expenditures and an estimated cost to complete Project.
2. State shall only withdraw Agency funds from the Local Government Investment Pool as needed to provide the match for federal funds as Project expenditures occur.
3. State's Project Manager for this Project is Candice Stich, Area 5 Project Leader, or designee, 644 A Street, Springfield, Oregon 97477; telephone (541) 744-8080.

GENERAL PROVISIONS

1. Prior to the award of a construction contract for the Project, this Agreement may be terminated by either party upon 30 days' notice, in writing and delivered by certified mail or in person.
2. State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:

Lane County/ODOT
Agreement No. 23602

- a. If Agency fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If Agency fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from State fails to correct such failures within ten (10) days or such longer period as State may authorize.
 - c. If Agency fails to provide payment of its share of the cost of the Project.
 - d. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - e. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or State is prohibited from paying for such work from the planned funding source.
3. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the parties prior to termination.
 4. Both parties shall, to the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, indemnify, defend, save, and hold harmless each other, their officers and employees from any and all claims, suits, and liabilities which may occur in their respective performance of this Project.
 5. Notwithstanding the foregoing defense obligations under paragraph 4 above, neither party nor any attorney engaged by either party shall defend any claim in the name of the other party or any agency, department, or division of such other party, nor purport to act as legal representative of the other party or any of its agencies, departments, or /divisions, without the prior written consent of the legal counsel of such other party. Each party may, at any time at its election assume its own defense and settlement in the event that it determines that the other party is prohibited from defending it, or that other party is not adequately defending its interests, or that an important governmental principle is at issue or that it is in the best interests of the party to do so. Each party reserves all rights to pursue any claims it may have against the other if it elects to assume its own defense.
 6. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all parties,

Lane County/ODOT
Agreement No. 23602

notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.

7. This Agreement and attached exhibits constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

IN WITNESS WHEREOF, the parties hereto have set their hands as of the day and year hereinafter written.

Through adoption of the FY08-12 Capital Improvement Program, the Lane County Board of Commissioners has approved the I-5 Coburg Road Interchange Project authorizing the County Administrator to sign and execute this Agreement on behalf of Lane County.

This Project is in the 2006-2009 Statewide Transportation Improvement Program, (Key #14649) that was approved by the Oregon Transportation Commission on August 17, 2005 (or subsequently approved by amendment to the STIP).

The Oregon Transportation Commission on June 18, 2003, approved Delegation Order No. 2, which authorizes the Director to approve and execute agreements for day-to-day operations. Day-to-day operations include those activities required to implement the biennial budget approved by the Legislature, including activities to execute a project in the Statewide Transportation Improvement Program.

Signature Page to Follow

Lane County/ODOT
Agreement No. 23602

On September 15, 2006, the Director of the Oregon Department of Transportation approved Subdelegation Order No. 2, in which the Director delegates to the Deputy Director, Highways, the authority to approve and sign agreements over \$75,000 when the work is related to a project included in the Statewide Transportation Improvement Program.

LANE COUNTY, by and through its Board of Commissioners

By Jeff Spartz
Jeff Spartz, County Administrator

Date 4-30-08

APPROVED AS TO LEGAL SUFFICIENCY

By [Signature]
Agency Counsel

Date 4/24/08

Agency Contact:
Bill Morgan
Lane County
3040 North Delta Highway
Eugene, Oregon 97408-1696

STATE OF OREGON, by and through its Department of Transportation

By [Signature]
Deputy Director, Highway

Date 22 MAY 08

APPROVAL RECOMMENDED

By [Signature]
Technical Services Manager/Chief Engineer

Date 5-22-08

By [Signature]
Region 2 Manager

Date 5-17-08

By [Signature]
Region 2 Project Delivery Manager

Date 5-13-08

APPROVED AS TO LEGAL SUFFICIENCY

By [Signature]
Assistant Attorney General

Date 5/10/08

BARRY Celia

From: BANDUCCI Mauria L [Mauria.L.BANDUCCI@odot.state.or.us] on behalf of CHICKERING Sonny P [Sonny.P.CHICKERING@odot.state.or.us]
Sent: Monday, June 21, 2010 3:57 PM
To: FLEENOR Bill A; BURCH Dianne (SMTP); BARRY Celia; SPARTZ Jeff R; CUYLER Alex D; COBURG Planning; SCHUESSLER Don; dschuessler@msm.com; judyvolta@yahoo.com
Subject: Coburg Interchange Project
Attachments: LCBC Letter.pdf

Electronic Distribution

Commissioner Bill Fleenor
Celia Barry
Jeff Spartz
Alex Cuyler
Mayor Judy Volta
Petra Schuetz
Don Schuessler

Please find attached a letter regarding the Coburg Interchange Project from Jane Lee, Region 2 Manager - Oregon Department of Transportation.

Thank you.

Mauria Banducci for Sonny Chickering
ODOT Area 5 - Lane County
644 A St., Springfield 97477
541-744-8080



Oregon

Theodore R. Kulongoski, Governor

Attachment 3 Page 2 of 4

Department of Transportation

Region 2

455 Airport Rd. SE, Bldg B

Salem OR 97301-5395

(503) 986-2600

(503) 986-2840

June 21, 2010

Mr. Bill Fleenor, Chair
Lane County Board of Commissioners
125 East 8th Avenue
Eugene, OR 97401

Dear Chair Fleenor,

This letter is to acknowledge the recent actions taken by the Lane County Board of Commissioners (Board) regarding the Coburg Interchange project.

It is our understanding that the Board adopted the Fiscal Year 2011-2015 Lane County Capital Improvements Program (CIP) on May 12, 2010. It is also our understanding that the May 12th adoption did not include the \$1,030,000 matching County funds for Phase One of the Coburg Interchange project that had been authorized in previous County CIPs. While we appreciate that hard decisions must be made during these difficult economic times and respect your need to redirect these funds to other County priorities, we still expect the County to honor their financial commitment to this project as specified in Cooperative Improvement Agreement No. 23,602. Should the County decline to do so, we may elect to pursue financial and other remedies as outlined in that agreement.

Independent of your funding decision, the Oregon Department of Transportation remains committed to delivering Phase One of the Coburg Interchange project. While Phase One does not include any upgrades to the over-crossing structure and, as a result, will not provide significant capacity increases to the interchange, it will provide valuable safety enhancements and improvements to the local roadway network. To that end, ODOT has decided to replace the loss of the Lane County local match with state funds and move forward to implement Phase One. We look forward to your cooperation as we advance this important local project, including approval of agreements regarding access management, construction within County rights-of-way, and acceptance of final improvements.

It has also come to our attention that the Board continues to have concerns over the land use designations and development potential within the City of Coburg. With the OTC adoption of the Coburg Interchange Area Management Plan (IAMP) in April (and the previous adoptions of compatible versions of the IAMP by the City and County), it is ODOT's position that sufficient measures and processes are now in place to enable successful management of the interchange's operations while the City of Coburg updates its comprehensive land use and transportation system plans.

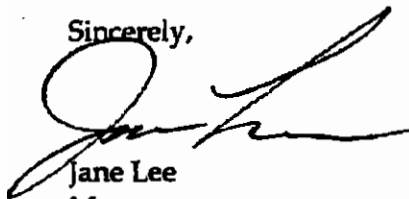
Page 2
June 15, 2010
Mr. Bill Fleenor, Chair
Lane County Board of Commissioners

As noted in the adopted IAMP policies, ODOT intends to work in partnership with the City during their plan update process and eventually amend the IAMP in response to this process as necessary and appropriate. We fully expect that the County will also be a participant and partner in the City's update process. This process would provide an opportunity for the County to bring your land use and development concerns for discussion and consideration.

ODOT will also continue to participate in development proposal activities consistent with the process that we follow with any jurisdiction. We will participate through the administration of our permit process where we have access control and permit authority and also through coordination with the County and City as applications for land use actions are submitted. Where we do not have permit authority, our review and comment on development proposals will be solely based on adopted state and local plans and policies, state administrative rules, and local implementing ordinances.

Consequently, from ODOT's perspective, any desire to address the County's ongoing concerns about the City of Coburg's land use issues in advance of their comprehensive land use and transportation system plan update process is truly an issue between Lane County and the City of Coburg. If the County and City reach an agreement to make interim land use or code changes in advance of completing the City's more comprehensive plan update process, ODOT will be very willing to update the IAMP as necessary and appropriate.

Sincerely,



Jane Lee
Manager
ODOT Region 2

CC: Judy Volta, Mayor, City of Coburg
Don Schuessler, Coburg City Manager
Petra Schuetz, City of Coburg Planner
Celia Barry, Lane County Public Works
Peter Defazio, Congressman
Ed Moore, DLCD

Bob Cortright, DLCD

Attachment 3, Page 4 of 4

Bonnie Heitsch, DOJ

Sonny Chickering, Area 5 Manager

Jerri Bohard, Manager, ODOT Transportation Development Division

June 16, 2010

CODE INTERPRETATION

CI-01-10 Interchange Area Management Plan co-amendment procedures

I. BASIC DATA

Applicant: City of Coburg

Alternative Contact: n/a

Owner: n/a

File Number: CI-01-10

Request: Clarify which land use actions within the IAMP "may affect the performance" of the interchange; triggering co-adoption by Lane County. Code interpretations are tools that can be used when some terms or phrases within the Code, or applicable refinement plan to the comprehensive plan, may have two or more reasonable meanings. *Code Interpretation* is a tool for resolving differences in the interpretation of development code.

Location: Coburg Highway Commercial Zoning District (C-2) land abutting Lane County roads inside the IAMP boundary: Assessors Map 16-03-33-00, Tax Lots 01700, 01600, 00102, 00103 and Assessors Map 16-03-33-00, Tax Lots 00200, 00207, 00206, 00101

Report Date: June 16, 2010

Applicable Criteria: Coburg Zoning Ordinance No. A200G; Article VII, Section D, C2, Highway Commercial District; ARTICLE X. Administration and Enforcement, Article X.I, Section C Type II Applications and X.VIII Code Interpretations
Coburg Comprehensive Plan
Coburg Interchange Area Management Plan

II. FINDINGS

A. Background

The Coburg Interchange Area Management Plan (IAMP) is co-adopted by Coburg and Lane County and is acknowledged as a facilities plan by the Oregon Transportation Commission. It is a refinement plan of the Coburg Comprehensive Plan and the city portion of land inside the IAMP boundary is, therefore, implemented through the city development code and thus eligible for code interpretation.

The adopted IAMP's purpose is to protect the function and operation of the interchange. A primary function of the IAMP is to reflect the existing land uses inside its existing boundaries. The cornerstone of protection for the Coburg IAMP is the Recommended Alternative project which is supported by policy and development code implementation. The supporting implementation includes a lower mobility standard to protect any excess capacity provided by the improvement, strict traffic impact analysis requirements, and encouragement of transit and transportation demand management implementation. At the time this interpretation was written, the Recommended Alternative design has been approved with bike/ped infrastructure consistent with the Coburg Loop Implementation Strategy and green streets technology for drainage with three bioswales.

The IAMP requires that if population and growth scenarios become different from those in the Comprehensive Plan (e.g. urban growth boundary expansion) then the IAMP needs to be updated.

The question of varying interpretation arises from the recognition that *any* IAMP text or policy, or development code language—including language consistent with what the County adopted that is different than what the City adopted—will not prohibit any future development proposal from being considered through due process. A developer may apply for any plan amendment, zone change, development, variance and/or conditional use permit, etc. and develop a case that the proposal meets the necessary criteria for approval.

The question that leads to this interpretation is what factors are in place to allow for the widest possible review, and approval, of a proposed development, specifically a large commercial development with regional transportation implications. The City's interpretation is that most effective system of checks and balances lies within the *collaborative procedures* within the IAMP process.

The purpose of IAMP includes, "how future land use and transportation decisions will be coordinated in interchange areas between ODOT and the local governments" (IAMP Guidelines). The relationship between land use change within the IAMP boundary and amending the IAMP is an issue whereby this code interpretation is useful.

Specifically, the purpose of this code interpretation is to define the coordination opportunities between Coburg and Lane County if a land use action affects the performance of the interchange within the IAMP boundary prior to co-adoption of the updated Coburg Transportation System Plan.

B. Justification

The Coburg IAMP *Functional Classification and Interchange Function* states, "it is not the primary function of the Coburg/I-5 interchange to serve additional or expanded commercial land uses (beyond the existing zoned potential) or regional commercial development". It is interpreted that this statement restrains *both* the City and the County from rezoning any parcel within the IAMP boundary without then updating the IAMP to reflect the change because the function statement states that the IAMP is designed only for existing conditions.

Consistent with the function statement, adopted Policy 7 reads,

The City and County must coordinate with ODOT in the review of land use applications for areas within the IAMP boundary. Land use actions within the IAMP that may affect the performance of the interchange, such as zone changes, and development applications, and requests for new local access, will be consistent with the adopted IAMP. Actions not consistent with the IAMP may only be approved by also amending the IAMP and related transportation system plans consistent with OAR 660-012-0050 and 0055.

Amendments to the IAMP require co-adoption by Lane County. Lane County would have the opportunity to analyze any application within the parameters of the IAMP's authority which includes; meeting ODOT access safety spacing standards, mobility standards, and other possible traffic impacts on the subject interchange, as appropriate.

It is interpreted that all zone changes, development applications, and requests for access must be consistent i.e. not increase the net impact of the existing land uses reflected in the IAMP. Further, "other possible traffic impacts", cited above, includes any increase to estimate net trips beyond the existing land uses allowed. Both the application types and any higher traffic impact are interpreted not to be consistent with the adopted IAMP.

The required process for providing partner jurisdictions to make their own determinations on a case by case basis occurs through the agency referral process. Agency referrals are distributed by the jurisdiction within which the proposal is located. After receiving an agency referral notice; ODOT, the City, or Lane County determine whether the land use application, zone change, new access or other possible traffic impacts are inconsistent with the IAMP. If a partnering agency determines an inconsistency with the adopted IAMP, the inconsistency must be articulated in writing and be directly connected to the authority provided by the IAMP special district. If so, it will trigger a co-adoption of an IAMP amendment.

Further, when a transportation impact analysis (TIA) for a zone change proposal determines impacts to the IAMP in mobility performance standards and there are no planned or funded projects to rely on for mitigation, the proposal would be considered inconsistent with the IAMP. In such a case, the IAMP would need to be amended for mobility performance standards or access management standards, rising to the level of co-adoption with Lane County.

This interpretation notes the broader public opportunity for input to land use actions within the IAMP boundary if inconsistency is determined. All land use actions require public notice to adjacent property owners (either within 100 or 300 feet depending on the type of application). The co-amendment process links land use decisions to the co-adoption process of the IAMP, effectively allowing the public input on a land use application within the legislative process. This expanded process provides opportunity to incorporate the needs and issues of residences and businesses, including those who depend on and use the interstate, but who might not have otherwise been considered a legal party to the land use action.

Last, consistent with the adopted policies of the IAMP to protect the function of the interchange; this interpretation is valid if full construction of the improvements - described as the Recommended Alternative - occurs in advance of Coburg expanding its urban growth boundary and updating its comprehensive plan/zoning to accommodate the adopted regional population and employment forecasts. The Coburg Transportation System Plan (TSP) co-adoption would sunset this interpretation as a TSP update adopts the IAMP as a refinement plan and integrates the UGB analysis (Urbanization Study).

C. Decision

It is determined that land use actions within the IAMP boundary including plan amendments, zone changes, development applications, and requests for new local access that increase the impact allowed within the existing IAMP land uses such as increased net trips, may be deemed inconsistent with the IAMP by co-adopting authorities. Actions not consistent with the IAMP may only be approved by also amending the IAMP and related transportation system plans consistent with OAR 660-012-0050 and 0055. IAMP amendments require co-adoption by Lane County. This interpretation acknowledges the interim nature IAMP implementation measures prior to its pending adoption into the Coburg Transportation System Plan. This code interpretation shall sunset with the co-adoption by Lane County of the Coburg Transportation System Plan.

D. Procedure

The procedure for code interpretation is determined by the Coburg Zoning Code, Article X.VIII Code Interpretations and is a tool that can be used when some terms or phrases within the Code - or an associated refinement plan under the authority of the comprehensive plan - may have two or more reasonable meanings. Code interpretation shall follow the codified procedure:

1. **Requests.** A request for a code interpretation shall be made in writing to the City Planning Official.
2. **Decision to Issue Interpretation.** The Planning Official shall have the authority to interpret the code, or refer the request to the Planning Commission for its interpretation. The Planning Official shall advise the person making the inquiry in writing within 14 days after the request is made, on whether or not the City will make an interpretation.
3. **Written Interpretation.** If the City decides to issue an interpretation, it shall be issued in writing and shall be mailed or delivered to the person requesting the interpretation and any other person who

specifically requested a copy. The written interpretation shall be issued within 14 days of the request. The decision shall become effective 14 days later, unless an appeal is filed in accordance with 4-5 below.


4. Type II Procedure. Code Interpretations shall be made using a Type II procedure under Article X.I, Section C.

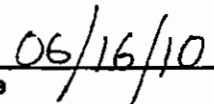
5. Appeals. The applicant and any party who received notice or who participated in the proceedings through the submission of written or verbal evidence may appeal the decision to the Planning Commission for a Type III decision. The appeal must be filed within 14 days after the interpretation was mailed or delivered to the applicant. Initiating an appeal requires filing a notice of appeal with the City Planning Official pursuant to Article X.I, Section D.

6. Interpretations On File. The City shall keep on file a record of all code interpretations.

If you have any questions, please feel free to contact the Planning Department at 541-682-7858 or planning@ci.coburg.or.us.

Approved By:


Petra Schuetz
Planning Director


Date

Acknowledged by:

Milo Mecham
City Attorney

Date

Cc: File, Owner



Oregon

Theodore R. Kulongoski, Governor

**Department of Land Conservation and Development
Community Services Division
South Willamette Valley Field Office**

644 A Street
Springfield, OR 97477
971.239.9453 – Mobile
ed.w.moore@state.or.us

Web Address: <http://www.oregon.gov/LCD>

June 24, 2010

Bill Fleenor, Chairman
Lane County Board of Commissioners
125 E. 8th Ave
Eugene, OR 97401



RE: City of Coburg, Coburg/I-5 IAMP Code Interpretation CI-01-10 dated June 16, 2010

Dear Chair Fleenor,

The department supports the above referenced code interpretation by the City of Coburg and believes it will provide sufficient interim protection of the function of the interchange consistent with the adopted function statements of both the city and Lane County until such time as the City adopts, and the county co-adopts, an updated transportation system plan (TSP) for Coburg.

Both the City of Coburg and Lane County adopted the ODOT Interchange Area Management Plan (IAMP) for the I-5 interchange at Coburg. However, because of concerns regarding the adequacy of existing land use regulations in protecting the function of the interchange from inappropriate regional commercial development, in adopting the IAMP Lane County adopted a different "function statement" for the interchange than did the City. The Oregon Transportation Commission (OTC) subsequently adopted the IAMP as a functional plan to the 1999 Oregon Highway Plan, including different "function statements" for the city and county jurisdictional areas of the IAMP.

To assist the City of Coburg and Lane County in coming to agreement on the planned function of the Coburg/I-5 Interchange, over the past month, Bob Cortright, Transportation Program Coordinator for the department has worked directly with the Coburg City Planner in preparing the above referenced code interpretation. The department believes that with this code interpretation, both the department and the county's interest in protecting, on an interim basis, future investments in the Coburg/I-5 Interchange from inappropriate regional commercial development on the edge of the Eugene-Springfield Metro Area until such time as Coburg adopts an updated TSP. This code interpretation provides further specificity on the type of commercial development that will require an amendment of the IAMP and co-adoption by the three jurisdictions – ODOT, Coburg and Lane County.

In conclusion, based on existing City of Coburg Zoning Code provisions for the C-2 Highway Commercial Zoning District along with Code Interpretation CI-01-10, there exist adequate land use measures to protect the function of the Coburg/I-5 Interchange on an interim basis until Coburg adopts an updated TSP. Should you have any question, do not hesitate to call either Bob Cortright (503.373.0050x241) or myself.

Respectfully,

A handwritten signature in black ink, appearing to read 'Ed Moore', with a stylized flourish at the end.

Ed Moore, AICP
SWV Regional Representative

- c. Bob Cortright, Transportation Coordinator
- Petra Schuetz, Coburg City Planner
- Celia Berry, Lane County Transportation Planner
- Kent Howe, Lane County Planning Director
- Darren Nichols, Community Services Manager
- File

I-5 Coburg Interchange Modernization Project
Pearl Street MP 0.403 to 0.635
Estimated Road Fund Cost \$1,030,000

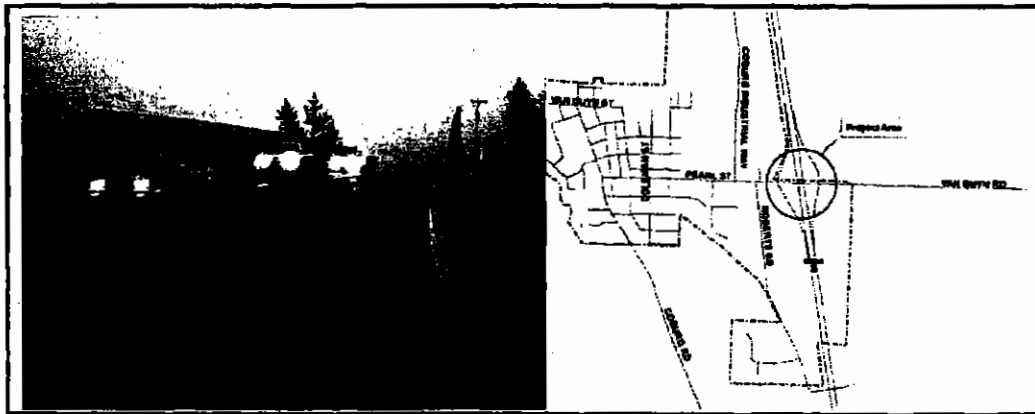


Project Scope: Improve Pearl Street and N Coburg Industrial Way to urban road standards to accommodate truck traffic as part of an ODOT initiated interchange modernization project

Project Limit	MP 0.403 -0.635	Road Name	Pearl St/ Coburg I.
Functional Class	Minor Arterial	Project Status	Adopted
Length	0.232 mile	Project Category	Payment to Other Agency

Existing Roadway Condition

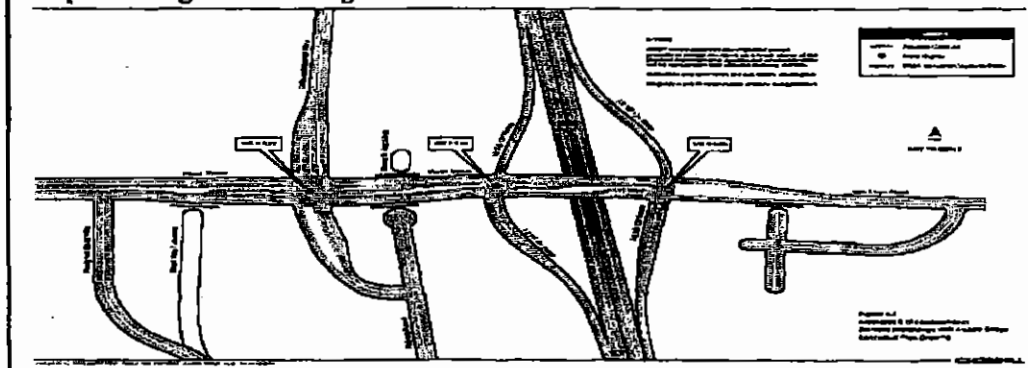
ADT	13,500	Crash Rate	0.20 crash / mil veh
Pavement Type	Asphalt Concrete	Sidewalk	<input type="checkbox"/>
PCI	76	Curb	<input checked="" type="checkbox"/>
Width	45 feet	Bike Lane	<input type="checkbox"/>



Define the Problem

Pearl Street has high truck traffic volume due to its proximity of the I-5 Interchange. The roadway is unimproved near the interchange and congested during peak hours. ODOT is planning an upgrade to the existing interchange to address high truck traffic in the area. Pearl Street and N Coburg Industrial Way are an integral part of the interchange.

Proposed Alignment Change



I-5 Coburg Interchange Modernization Project
Pearl Street MP 0.403 to 0.635
Estimated Road Fund Cost \$1,030,000



Proposed Solution

Lane County is participating in an ODOT initiated local improvement project encompassing two Lane County roads inside the I-5 Coburg Road Interchange influence area. The local improvement project will add turn lanes, bike lanes, sidewalks, and storm drainage on the unimproved county roads.

Project Cost (\$000,000s)

PROJECT ELEMENT	TOTAL	FY 11	FY 12	FY 13	FY 14	FY 15
Prelim Engineering	\$3.0	\$3.0				
Right-of-way Phase 1	\$6.0	\$6.0				
Construction Engineering	\$1.0	\$1.0				
Construction Phase 1	\$4.6	\$4.6				
Overpass structure Phase 2	\$32.4				\$32.4	
Utility Relocation	\$1.0	\$1.0				
Total Cost	\$48	\$15.6			\$32.4	

Funding Source (\$000,000s)

FUND SOURCE	TOTAL	FY 11	FY 12	FY 13	FY 14	FY 15
Road Fund	\$1.03	\$1.03				
Federal Earmark	\$9	\$9				
ODOT STIP	\$5.6	\$5.6				
State Aid	0	0				
Unsecured Funds	\$32.4	0			\$32.4	
Other	0	0				
Total Fund	\$48	\$15.6			\$32.4	

Factors for Project Selection

Safety Improvement	<input checked="" type="checkbox"/>	Plan Consistency	<input checked="" type="checkbox"/>
Structural Capacity Enhancement	<input type="checkbox"/>	Economic Development	<input checked="" type="checkbox"/>
Congestion Improvement	<input checked="" type="checkbox"/>	Supports Tourism, Recreation	<input type="checkbox"/>
Provides Bike/Ped Alternative	<input type="checkbox"/>	Preserves Bridge Pavements	<input type="checkbox"/>
Degree of Users Benefits	<input checked="" type="checkbox"/>	Has Public Support (Public Request)	<input type="checkbox"/>
Leverages Other Projects/Funds	<input checked="" type="checkbox"/>	Total Factor Considered	9

Footnotes*

* (1) Lane County recently adopted the Coburg I-5 Interchange Area Management Plan (IAMP) that plans to modernize the existing interchange at I-5 MP 199. County roads Pearl Street and Van Duyn Road, are an integral part of the IAMP and are planned for improvements in phases. This project is programmed as part of IAMP Phase 1 implementation for which ODOT has secured federal Earmark funding. The amount shown in the CIP is a portion of local match required for federal funding of Phase 1.

(2) Phase 1 includes right-of-way acquisition and local improvements on the west side of I-5. Phase 2 includes widening of the existing overpass bridge structure for which funding has not been identified at this time. Lane County is not likely to participate in Phase 2 of the project.

(3) The \$1.03 million road fund allocation has been continued in this update cycle, and is expected to be expended in FY 2011. Originally, the road fund allocation was \$2.5 million based upon a 20% local match for a \$13 million federal dollar earmark. This amount was reduced to the current level during CIP 07-11.

(4) The Phase 1 project has advanced to the design phase. The ODOT project team anticipates the project will be bid let for construction in May 2011. Construction will continue for two construction seasons.