

W-10.G.5.

**AGENDA COVER MEMO**

**DATE:** March 9, 2005  
**TO:** Lane County Board of Commissioners  
**PRESENTED BY:** James R. McCoy, HACSA  
Betty Mishou, Engineering Administration  
**AGENDA ITEM TITLE:** In the Matter of Designating \$225,000 for Construction of Road Fund Eligible Improvements to Assist the Turtle Creek Affordable Housing Project in Eugene

**I. MOTION**

**THAT THE BOARD ORDER BE APPROVED DESIGNATING THE USE OF COUNTY ROAD FUNDS IN THE NOT-TO-EXCEED AMOUNT OF \$225,000 FROM THE ADOPTED FY 05-09 CAPITAL IMPROVEMENT PROGRAM FOR CONSTRUCTION OF ROAD FUND ELIGIBLE IMPROVEMENTS ASSOCIATED WITH THE TURTLE CREEK AFFORDABLE HOUSING PROJECT;**

**THAT THE COUNTY ADMINISTRATOR IS AUTHORIZED TO TAKE THE NECESSARY ADMINISTRATIVE ACTIONS TO ACCOMPLISH THIS EXPENDITURE, INCLUDING ENTERING INTO ANY INTERGOVERNMENTAL AGREEMENTS WITH THE HOUSING AND COMMUNITY SERVICES AGENCY (HACSA) AND THE CITY OF EUGENE AS NECESSARY;**

**THAT THE ROAD IMPROVEMENT ASSESSMENTS FOR THIS PROJECT BE WAIVED PURSUANT TO CHAPTER II, SECTION 9(2) OF THE LANE COUNTY CHARTER AND IN ACCORDANCE WITH LC 15.605.**

**II. ISSUE/PROBLEM**

Should the Board commit \$225,000 in road funds for road improvements associated with HACSA's Turtle Creek affordable housing project in Eugene?

**III. DISCUSSION**

**A. Background.**

*Summary*

Turtle Creek is a low-income rental housing development proposed for the River Road area of Eugene, adjacent to HACSA's Walnut Park Duplexes on Hatton Street. This project will consist of 25 two-bedroom and 2 three-bedroom units. The Housing Policy Board approved the Turtle Creek project at its February 2004 meeting.

*Background Detail*

In 1991, the City of Eugene acquired the 41-acre "Walnut Grove" as part of its landbank program. As the first project of the Lane County Intergovernmental Housing Policy Board, it grew from the concept that control of a sufficiently large parcel of land could allow careful integration of market-rate, single-family housing with affordable multi-family development.



The first undertaking at Walnut Grove was HACSA's Walnut Park Duplexes (shown at left), a 32-unit Low Income Housing Tax Credit (LIHTC) project completed in 1995. Since then, Walnut Grove has seen the development of 30 market-rate and 18 low-income single-family homeownership units, 10 market rate duplexes, and a 24-unit LIHTC project developed by St. Vincent de Paul in 1996 at the southernmost end of the parcel.

By the end of 2000, the entire land-bank site had been accounted for except for 4.7 acres, which the City made available for development through the Intergovernmental Housing Policy Board. In February 2004, the Housing Policy Board selected HACSA's Turtle Creek Affordable Housing Development proposal for this site. Among the subsidies recommended for the project were Lane County Road funds to construct a public roadway into the site.

In August 2004, HACSA applied for Low-Income Housing Tax Credits (LIHTC) from the Oregon Housing and Community Services Department (OHCS) to complete the financing package for Turtle Creek. The schedule proposed construction of the roadway in spring 2005, immediately followed by construction of Turtle Creek. HACSA's proposal was not successful because of the limited amount of LIHTC available, but OHCS has strongly encouraged HACSA to re-apply in August 2005.

HACSA will re-submit the application to OHCS in August 2005 and is requesting (1) that the Board allocate Road Funds for the project and (2) that the Board allow Lane County Public Works to carry out the roadway construction during the construction season of 2005.

## **B. Analysis.**

With the support of Lane County road funds, HACSA would be able to reduce costs by approximately \$7,400 per household. Other local public assistance provided to the project includes the land and HOME grant funds from the City of Eugene, a City of Eugene SDC waiver and a Eugene Water & Electric Board SDC waiver. Application will be made to the Oregon Housing and Community Services Agency (OHCS) for state Housing Trust Funds and federal low-income housing tax credits.

Lane County road funds, along with the other grant funding, will enable HACSA to achieve rents that are affordable to households below 50 percent of area median income.

The extension of Hatton Avenue will be constructed to urban standards with curb, gutter and sidewalk. LC 15.636 states these costs are assessed to the benefiting property owners on a front footage basis. HACSA owns the land on which the project will be constructed. Previously, Board direction has been that road funds set aside for assisted housing projects are to be used on eligible road work to lower development costs so that, to the extent possible, the prices charged for the affordable housing units can be as low as possible. Consequently, the County has not assessed other parcels occupied by assisted housing units on other projects and staff recommends the Board waive assessment of the Turtle Creek parcels. If the Board chooses to assess for improvements, the City of Eugene will be asked to grant the County authority to assess within city limits.

In order to waive the assessments, the Board must find the road project to generally benefit the County pursuant to Chapter II, Section 9(2) of the Lane County Charter and in accordance with LC 15.605.

Lane County Public Works will administer and construct the project.

**C. Alternatives/Options.**

1. Support the allocation of \$225,000, waive project assessments, and direct the County Administrator to enter into the appropriate agreements.
2. Deny the allocation of \$225,000.

**IV. Implementation / Follow Up**

Upon approval by the Board, the necessary agreements will be processed for execution by the County Administrator in order to proceed with this project.

**V. Attachments**

1. Draft HACSA Intergovernmental Agreement

IN THE BOARD OF COMMISSIONERS OF LANE COUNTY  
STATE OF OREGON

ORDER NO.

(IN THE MATTER OF DESIGNATING THE USE  
(OF \$225,000 FOR CONSTRUCTION OF ROAD  
(FUND ELIGIBLE IMPROVEMENTS TO ASSIST  
(THE TURTLE CREEK AFFORDABLE  
(HOUSING PROJECT IN EUGENE

**WHEREAS**, Lane County has entered into an Intergovernmental Agreement to participate in an effort with the City of Eugene, City of Springfield, and the Housing Authority and Community Services Agency (HACSA) to coordinate local resources in addressing the housing needs of Lane County; and

**WHEREAS**, in this agreement, Lane County agreed to consider requests for Lane County Road Funds for eligible improvements to assist in the development of additional low income housing; and

**WHEREAS**, the Housing Policy Board has approved the Turtle Creek project at their February 2004 meeting; and

**WHEREAS**, the cost of the road improvements and related services are road fund eligible costs. The Housing and Community Services Agency is responsible for any ineligible costs associated with the project. The project will be constructed to urban standards with curb, gutter and sidewalk in the fall of 2005; and

**WHEREAS**, Lane County has allocated funding for use on affordable housing projects in the adopted FY 05-09 Capital Improvement Program; and

**WHEREAS**, the Board hereby finds that this project will generally benefit the County and the improvement assessments should therefore be waived so that the development cost savings can be passed on to future homeowners; **NOW, THEREFORE, IT IS HEREBY**

**ORDERED**, THAT LANE COUNTY ROAD FUNDS IN THE NOT-TO-EXCEED AMOUNT OF \$225,000 BE DESIGNATED TO CONSTRUCT ROAD-FUND ELIGIBLE IMPROVEMENTS ASSOCIATED WITH THE AFFORDABLE HOUSING DEVELOPMENT KNOWN AS TURTLE CREEK.

**IT IS FURTHER ORDERED** THAT THE COUNTY ADMINISTRATOR IS AUTHORIZED TO TAKE THE NECESSARY ADMINISTRATIVE ACTIONS TO ACCOMPLISH THIS EXPENDITURE, INCLUDING ENTERING INTO ANY AGREEMENTS WITH THE HOUSING AND COMMUNITY SERVICES AGENCY AND THE CITY OF EUGENE AS NECESSARY.

**IT IS FURTHER ORDERED** THAT THE ROAD IMPROVEMENT ASSESSMENTS FOR THIS PROJECT BE WAIVED PURSUANT TO CHAPTER II, SECTION 9(2) OF THE LANE COUNTY CHARTER AND IN ACCORDANCE WITH LC 15.605.

**DATED** this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Anna Morrison, Chair  
Lane County Board of Commissioners

APPROVED AS TO FORM

Date 2-25-05 Lane County

\_\_\_\_\_  
OFFICE OF LEGAL COUNSEL



**THIS AGREEMENT** entered into by and between Lane County, a political subdivision of the State of Oregon, hereinafter referred to as **COUNTY** and the Housing Authority and Community Services Agency of Lane County, a public corporation organized under the State of Oregon, hereinafter referred to as **HACSA**.

**RECITALS**

**WHEREAS**, Lane County has entered into an Intergovernmental Agreement to participate in an effort with the City of Springfield, the City of Eugene and the Housing Authority and Community Services Agency (HACSA) to coordinate local resources in addressing the housing needs of Lane County; and

**WHEREAS**, through this agreement, Lane County has agreed to consider requests for County road funds for eligible improvements that could assist in the development of additional low-income housing; and

**WHEREAS**, Lane County has allocated funding in the adopted FY 05-09 Capital Improvement Program for roads for assisted housing projects; and

**WHEREAS**, **HACSA** has requested \$225,000 of County road funds for construction of street and road fund eligible improvements to assist the Turtle Creek housing project, a 27-unit development for low-income households. Street and road fund eligible improvements to be constructed in conjunction with the Turtle Creek development will hereinafter be referred to as **PROJECT**. Those costs deemed County road fund ineligible as defined by the Oregon Constitution will be funded by **HACSA**; and

**WHEREAS**, the Housing Policy Board, the intergovernmental body for overseeing joint housing development initiatives between jurisdictions in Lane County, has expressed its support for the Turtle Creek affordable housing project; and

**WHEREAS**, through adoption of Board Order XX-XX-XX-X, the Board has authorized the expenditure of \$225,000 of County road funds for eligible **PROJECT** construction costs; and

**NOW, THEREFORE, THIS AGREEMENT WITNESSETH:** That for and in consideration of the mutual covenants and promises between the parties hereto, the parties agree as follows:

**AGREEMENT TIME**

1. This Agreement becomes effective on the date of the execution of said Agreement by both parties and remains in effect throughout the term of the Agreement unless extended with the written concurrence of both parties.

2. This Agreement will expire one (1) year from the date of execution of said Agreement or upon satisfaction of all Agreement terms, whichever occurs first, unless the parties mutually agree to extend the expiration date.

### **RESPONSIBILITIES - HACSA AND COUNTY**

**HACSA shall:**

1. Designate a representative to serve as project coordinator and point of contact with regard to County activities related to **PROJECT**.
2. Dedicate necessary public right-of-way including preparation of easement and dedication documents for **PROJECT**. **HACSA** will also provide **COUNTY** with documentation of the City of Eugene's formal acceptance of the road or its eminent intent to do so. **COUNTY** will reimburse **HACSA** for eligible project costs upon satisfaction of this provision and all other agreement terms.
3. Coordinate with utility agencies for utility design and scheduling of utility installation.
4. Be responsible for all ineligible costs plus eligible costs exceeding the **COUNTY** allocation. Ineligible costs (as defined by the Oregon Constitution) shall include but will not be limited to sanitary sewer construction and related engineering costs.

**COUNTY shall:**

1. Designate a representative to serve as project coordinator and point of contact with regard to County activities related to **PROJECT**.
2. Obtain any required permits.
3. Design and construct project. Activities include, but are not limited to, the following:
  - Prepare and review project plans and specifications for determination of road fund eligibility;
  - Prepare project bid format to ensure road fund eligible activities are identified as separate line items;
  - Carry out **PROJECT** administration;
  - Review and approve landscaping costs to ensure they do not exceed 6% of County allocation;
  - Review and approve final project accounting for road fund eligible activities

**BOTH PARTIES agree:**

This agreement constitutes the entire agreement between the **COUNTY** and **HACSA** on the subject matter hereof. No waiver, consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both the **COUNTY** and **HACSA**. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. The delay or failure of the Board to enforce any provision of this agreement shall not constitute a waiver by the **COUNTY** of that provision or any other provision. **HACSA**, by the signature below of its

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authorized representative, hereby acknowledges that it has read this agreement, understands it, and agrees to be bound by its terms and conditions.

### **INDEMNITY**

1. **HACSA** agrees to indemnify, defend and hold Lane County, its Commissioners, agents, officers and employees harmless and defend all damages, losses and expenses included but not limited to attorney's fees and to defend all claims, proceedings, lawsuits and judgments arising out of or resulting from the fault of **HACSA**, its agents, representatives or subcontractors, in the performance of or failure to perform this contract.

### **GENERAL PROVISIONS**

1. **Persons Not To Benefit.** No member of or delegate to Congress, resident commissioner, officer, agent or employee of the United States of America, member of the Oregon Legislative Assembly, elected official of the State of Oregon, or official, agent or employee of any political subdivision, municipality or municipal corporation of the State of Oregon shall be admitted to any share or part of this Agreement or derive any financial benefit that may arise there from.
2. **No Third Party Beneficiaries.** The **COUNTY** and **HACSA** are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
3. **Successors and Assigns.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the **COUNTY** and **HACSA** and their respective successors and assigns; provided however that **HACSA** may not assign this Agreement or any interest therein without the prior written consent of the **COUNTY**, which consent may be withheld for any reason.
4. **Severability.** The **COUNTY** and **HACSA** agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provisions held to be invalid.
5. **Notice.** Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid, to the **COUNTY** or **HACSA** at the address or number set forth on the signature page of this Agreement, or to such other addresses or numbers as either party may hereafter indicate pursuant to this Section. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

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**IN WITNESS WHEREOF,** the parties hereto have executed this Agreement as of the day and year last below written.

**HACSA**

By: \_\_\_\_\_  
Chris Todis

Title: Executive Director

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

Date: \_\_\_\_\_

**LANE COUNTY**

By: \_\_\_\_\_  
William A. Van Vactor

Title: County Administrator

Date: \_\_\_\_\_

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