

W.T.A.

Memorandum Date: November 6, 2006
Order Date: November 21, 2006

TO: Board of County Commissioners

DEPARTMENT: Public Works

PRESENTED BY: Sonny Chickering, County Engineer

AGENDA ITEM TITLE: ORDER / IN THE MATTER OF DENYING A REQUEST THAT THE BOARD AUTHORIZE THE COUNTY ADMINISTRATOR TO SIGN A SECOND EXTENSION OF AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF EUGENE REGARDING \$220,000 IN CAPITAL IMPROVEMENT PROGRAM FUNDS FOR THE JUDKINS POINT SOUTH/ I-5 INTERCHANGE PROJECT.

I. MOTION

THAT THE ATTACHED BOARD ORDER BE ADOPTED DENYING A REQUEST THAT THE BOARD AUTHORIZE THE COUNTY ADMINISTRATOR TO SIGN A SECOND EXTENSION OF AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF EUGENE REGARDING \$220,000 IN CAPITAL IMPROVEMENT PROGRAM FUNDS FOR THE JUDKINS POINT SOUTH/ I-5 INTERCHANGE PROJECT.

II. AGENDA ITEM SUMMARY

Due to delays, the Judkins Point South/I-5 Interchange project has not been constructed on schedule. Funds were originally approved in June 2004 in the amount of \$220,000 in FY 04-05 in Capital Improvement Program (CIP) funds for this improvement. The improvements were required as a condition of development by the City of Eugene at the request of the Oregon Department of Transportation (ODOT). The development company responsible for constructing the improvements has requested (see attached letter) that the City of Eugene and Lane County adjust to the new schedule by signing an extension of the IGA between the city and county to revise the termination date to November 17, 2007.

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

There are two Board orders relevant to this project. As mentioned above, the Board approved Order 04-6-23-9 on June 23, 2004 that deleted a project (Ridgeway Road) from the CIP and allocated \$220,000 to the Judkins Point South/I-5 Interchange project. These funds were the second allocation of funds for the interchange area. By Order 02-8-13-3, the Board previously allocated

\$200,000 in Community Development CIP funds for improvements to Glenwood Boulevard on the north side of the interchange. Those improvements were made by the City of Eugene through a construction contract in 2005 and the funds have been paid to the City.

When the additional funds were approved in 2004 for the south side, the original IGA with the City of Eugene was amended to include the second project and to extend the term of the agreement to November 17, 2006. Now, this delay requires a second amendment to again extend the agreement.

B. Policy Issues

Since the decision to fund this project in the CIP program, the financial picture in the Road Fund has become more uncertain. Reauthorization of the federal payments into the Road fund has been delayed and is not certain. In addition, in the last two years, trends toward increasing expenses and at best flat revenues have reduced the projected funds available to the CIP in all programs. Given the delays involved in this project, there is an opportunity for the Board to reconsider this allocation.

A second issue is that, although the IGA is with the City of Eugene, the funding of this project in effect reimburses a private developer for public investments that are required to mitigate development impacts. The original recommendation to fund this project was based on the fact that it will improve the south ramp terminal area and a connecting access road at the Judkins Point Interchange on I-5.

C. Board Goals

This decision is related to allocation of Road Fund financial resources through the Capital Improvement Program (CIP). 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.*

The first goal is relevant to the Board's decision to allocate funds to this project to facilitate improvements necessary for development of the Judkins Point/I-5 Interchange area.

Under RESOURCE PLANNING AND ALLOCATION, B3 Allocate Resources Strategically, page 29-30, *d. The following principles will apply if reductions are required because of cutbacks in revenue:*

6. *Road Fund priorities will be as follows:*

- *Operation, maintenance, and preservation (OM&P) of the existing County road system will receive the highest priority.*
- *To the extent possible, OM&P activities should be funded by user fees from the State Highway Fund and timber receipts.*
- *Timber receipts, beyond those needed for OM&P, should be used to fund modernization projects and revenue sharing.*

D. Financial and/or Resource Considerations

Substantial reductions in the CIP over the last two years have been made following the priorities above. Since the Judkins Point South project does not improve or maintain the County road system, there is some justification for reconsideration of this allocation in the current budget environment. Secondly, although it will improve an ODOT ramp terminal and a city street, county funding will reduce the required investment by East Ridge Development, LLC.

E. Analysis

In 2004, staff recommended that the Board drop the Ridgeway Road project from the CIP and also recommended reallocation of \$220,000 in these funds to the Judkins Point South/I-5 Interchange project. This request came from the developer's of property adjacent to I-5. The City of Eugene has been working to coordinate activities between the developer and ODOT on these road improvements. The Judkins Point South improvements are the developer's responsibility. The City has taken a neutral position on the extension issue.

F. Alternatives/Options

Option 1. Adopt the Order denying the request to authorize the County Administrator to sign an extension of the IGA with the City of Eugene to November 17, 2007 as requested by East Ridge Development, LLC. As stated in the Order, this action will put the \$220,000 back into the Road Fund reserve.

Option 2. Approve the request for the time extension on the IGA. Direct staff to prepare an order authorizing the County Administrator to amend the existing agreement for the funds by extending the termination date an additional year to November 17, 2006.

IV. TIMING/IMPLEMENTATION

A decision is needed now to determine whether the current IGA will be extended, remain in force, and provide Road Funds for the project.

V. RECOMMENDATION

Option 1. Deny the extension request.

VI. FOLLOW-UP

County staff will coordinate with City of Eugene staff and the East Ridge Development representatives as necessary to carry out Board action on this request.

VII. ATTACHMENTS

Board Order
October 30, 2006 letter from East Ridge Development, LLC
Order 06-4-23-9

**IN THE BOARD OF COMMISSIONERS OF LANE COUNTY
STATE OF OREGON**

ORDER NO.

(In the Matter of Denying a Request that the
(Board Authorize the County Administrator
(to Sign a Second Extension of an
(Intergovernmental Agreement with the City
(of Eugene Regarding \$220,000 in Capital
(Improvement Program Funds for the
(Judkins Point South/I-5 Interchange
(Project.

WHEREAS, the Board of County Commissioners previously authorized \$220,000 in Capital Improvement Program funds for the Judkins Point South/I-5 Interchange project through adoption of Board Order 04-6-23-9; and

WHEREAS, the County Administrator has previously amended an Intergovernmental Agreement with the City of Eugene on November 17, 2005 to include expenditure of \$220,000 for Judkins Point South/I-5 Interchange project; and

WHEREAS, delays in processing project approvals with the Oregon Department of Transportation (ODOT) have resulted in delays to construction of the Judkins Point South project in 2006; and

WHEREAS, the County Administrator requires authorization from the Board to extend the Intergovernmental Agreement with the City of Eugene for the second time; and

WHEREAS, County staff is recommending against extending the agreement because of changing circumstances in the Capital Improvement Program (CIP) and the Road Fund;

WHEREAS, the Board has discussed the request and does not wish to extend the timeline for expenditure of the funds allocated to the Judkins Point South/I-5 Interchange project: **NOW THEREFORE BE IT**

ORDERED, that the request for a second extension of time for this project is denied and that the \$220,000 be returned to the general Road Fund reserve.

DATED this _____ day of _____, 2006.

Bill Dwyer, Chair
Lane County Board of Commissioners

APPROVED AS TO FORM

Date 11-13-06 Lane County

OFFICE OF LEGAL COUNSEL

EAST RIDGE DEVELOPMENT, LLC
1111 Main Street, Suite 700
Vancouver, WA 98660

October 30, 2006

Lane County Board of Commissioners
125 East 8th Avenue
Eugene, OR 97401

RE: East Ridge Village PUD (PDF 02-2)
\$220,000 IGA Bond for Glenwood CIP

Dear Board:

I am writing to request your support in consideration of extending the County IGA funding of \$220,000 for the Glenwood Interchange CIP (City of Eugene) one last time.

It has come to our attention that the County Administrator does not have the authority to extend the IGA for the \$220K, so it must go before the Board of Commissioners for a vote. In consideration of your decision I would like to go on record with the following explanation.

We acquired control of the project and the PUD from the original applicant, Nancy Williams, and entered into a development agreement with the City of Eugene for the CIP in November of 2005 with the intent to proceed with the original development application for PH 5 of the PUD, including the CIP. Prior to our control of the project the Phase 5 PUD Modification application was submitted on May 11, 2004, deemed complete on Sept. 9, 2004 and approved with conditions on May 7, 2005. The Phase 5 Tentative Subdivision application was submitted on April 14, 2004, deemed complete on Sept. 9, 2004 and approved with conditions on May 7, 2005. This is the approximate time in which our team & ownership took over the Phase 5 PEPI and CIP application process, after two previous submittals by others. After two more submittals by our team and over a year later we were notified by ODOT of the need for a design exception for the location of the intersection of Moon Mountain Drive and Brackenfern and for storm water quality and detention/capacity verification. Having followed the provisions of the PUD in preparing our submittals and associated engineering we anticipated permits and a construction start date of March or April of 2006. As of the date of this letter we are awaiting final approval from the City and ODOT on both projects within days. Late in the review process several issues came up that were unforeseen and frankly inconsistent with the provisions of the PUD. Unfortunately, at great expense to our project in both time and investment, we have been delayed to a point where we are now preparing for a winter construction start. Based on a meeting with the City of Eugene & EWEB on October 18th we have agreed to a schedule that will have the Glenwood CIP improvements completed on or before July 15, 2007.

We are available for additional testimony and plan to attend the November Board meeting in that regard. Thank you for your consideration.

Sincerely,

EAST RIDGE DEVELOPMENT, LLC

By: Vib-Lan, LLC, its Member

By: Gregory W. Daniels, Manager

GWD:jks

PASSED

IN THE BOARD OF COMMISSIONERS OF LANE COUNTY
STATE OF OREGON

ORDER NO.) IN THE MATTER OF WITHDRAWING THE RIDGEWAY ROAD
04-6-23-9) IMPROVEMENT PROJECT FROM THE PUBLIC WORKS 2005-
) 2009 CAPITAL IMPROVEMENT PROGRAM (CIP) AND MAKING
) THE FUNDS AVAILABLE FOR OTHER PROJECTS, INCLUDING
) THE ALLOCATION OF \$220,000 TO THE JUDKINS POINT
) SOUTH/I-5 INTERCHANGE PROJECT.

WHEREAS, the Board adopted the FY 2004-2008 CIP by Order 03-5-7-11, which scheduled construction of the Ridgeway Road project for the summer of 2005; and

WHEREAS, on April 20, 2004, Lane County Public Works held a public open house and began receiving public comments regarding said project; and

WHEREAS, on May 26, 2004, the Roads Advisory Committee considered the report prepared by County staff and adopted a recommendation to cancel the project due to general lack of community support; and

WHEREAS, on June 23, 2004, the Board of Commissioners held a public hearing regarding the Roads Advisory Committee recommendation; and

WHEREAS, the Board finds it is not in the public interest to pursue the project; and

WHEREAS, the Board, through a demonstrated lack of public support, finds that the proposed project is not compatible with the greatest public good, the least private injury, and highest use of public funds; and

WHEREAS, the Board has determined that the funds allocated in FY 04-05 for the Ridgeway Road project in the amount of \$620,000 should be made available for projects of demonstrated need in the adopted CIP or that may be added to the CIP that are currently unfunded; **BE IT NOW THEREFORE**

ORDERED, that the 2005-2009 Capital Improvement Program (CIP) be amended to remove the Ridgeway Road project from the Pedestrian and Bicycle Improvements category for FY 04-05 in the amount of \$620,000 and add the Judkins Point South/I-5 Interchange project in the amount of \$220,000 to the Payments to Other Government Agencies category for FY 04-05, with the remaining \$400,000 from the Ridgeway Road project to go into the unencumbered balance of the Capital Project Partnership Program (CaPP).

DATED this 23rd day of July 2004.

APPROVED AS TO FORM

Date 6-23-04 lane county


OFFICE OF LEGAL COUNSEL



Bobby Green, Sr., Chair
Lane County Board of Commissioners