

W. S. C. S.

AGENDA COVER MEMO

DATE: April 27, 2004

TO: Lane County Board of Commissioners

DEPT.: Public Works

PRESENTED BY: Frank Simas
Right of Way Manager

AGENDA ITEM TITLE: In the Matter of Approving the Execution of an Agreement and Supplemental Agreement in Connection with the Dedication of Right of Way for Phase II of the Jasper Road Extension Project.

I. MOTION

THAT THE BOARD ORDER BE APPROVED AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE AN AGREEMENT AND SUPPLEMENTAL AGREEMENT CALLING FOR THE PAYMENT OF DAMAGES DUE TO THE LOSS OF A RAILROAD SPUR LINE THAT IS LOCATED IN AN AREA AGREED TO BE DEDICATED AS RIGHT OF WAY FOR THE JASPER ROAD EXTENSION PROJECT, PHASE II.

II. ISSUE OR PROBLEM

By Resolution Order and 98-12-9-19, the Board approved the project design concept and the acquisition of fee or other interests in portions of certain real properties necessary for the construction of the Jasper Road Extension project. The Resolution and Order contained a condition that the construction of the project was contingent upon Lane County receiving title to the necessary right of way between Mt. Vernon Road and Jasper Road at no cost to the County.

The dedication of the right of way over a portion of the proposed alignment on land owned by McDougal Brothers Investments and the eventual construction of the project will require the relocation or discontinuance of a railroad spur line serving an industrial complex. The owners of the property are willing to dedicate the necessary land interests needed for the project, but in their view, the loss of the spur or the costs of relocating it amounts to an economic loss to the property that is far in excess of the value of the land rights that they are dedicating and of the value of the rights that other affected owners have agreed to dedicate.

III. DISCUSSION

A. Background

All other owners of the land adjacent to the proposed alignment of Jasper Road Extension, Phase II, have signed a joint Agreement for Construction of Public Improvement for this project which includes an agreement to dedicate the necessary right of way to Lane County at no cost to the County. McDougal Brothers Investments owns land along the south end of the proposed project that includes an industrial complex that is currently served by a railroad spur line used to transport raw material and finished product in and out of a wood products plant. They are unwilling to dedicate the necessary right of way without a commitment that they will be compensated for the loss of the spur.

The proposed alignment will require the relocation or abandonment of the spur in order to avoid a crossing of the spur by the new roadway. The total cost of relocating the spur line is estimated to be between \$450,000 and \$497,900. In recognition of this, the City of Springfield has agreed to pay McDougal Brothers \$375,000., and an additional amount of up to \$47,900 for actual costs incurred if the relocation requires the installation of a new switch on the Union Pacific mainline.

In order to facilitate the construction of the project, and because the City of Springfield cannot dedicate additional funding for this purpose, County staff has proposed that Lane County compensate McDougal Brothers in the amount of \$75,000 for the loss or relocation of the spur. This proposed settlement is in accordance with parameters for negotiation given to staff in Executive Session held in October, 2002.

C. Analysis

Because it was necessary to change the location of the southerly-most intersection and to clarify other aspects of the agreement, including a release of claims from the current tenant of the property, McDougal Brothers was also asked to sign a Supplemental Agreement.

Although the above-referenced Resolution and Order authorized the commencement of condemnation if necessary, it is not anticipated that the compensation would be less if the acquisition was to be completed through court action.

Sufficient funding has been allocated in the Capital Improvement Program for the 2003-2004 fiscal year for right of way acquisition for the Jasper Road Extension project. The payment will only be made upon dedication of the needed right of way, which will not be requested until the final alignment has been resolved and all necessary environmental and other permits have been obtained.

C. Alternatives/Options

1. Approve the attached Order authorizing the County Administrator to execute the joint Agreement and Supplemental Agreement including the provision for payment of \$75,000 for the loss or relocation of the railroad spur.

2. Deny approval and direct staff otherwise.

D. Recommendations

In view of the overall public benefit to be derived, it is recommended that Alternative No. 1 be approved.

IV. IMPLEMENTATION/FOLLOW-UP

After execution by the County Administrator, the Agreement and Supplemental Agreement should be returned to the Right of Way Management Section for recording and further processing. Payment to McDougal Brothers under the Supplemental Agreement will not be made until all necessary permits and approvals necessary for construction of the project have been obtained, and the dedication document has been signed by the Grantors.

V. ATTACHMENTS

None.

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

ORDER NO.

**(IN THE MATTER OF APPROVING THE
(EXECUTION OF AN AGREEMENT AND
(SUPPLEMENTAL AGREEMENT IN CONNECTION
(WITH THE DEDICATION OF RIGHT OF WAY FOR
(PHASE II OF THE JASPER ROAD EXTENSION
PROJECT.**

WHEREAS, by Order and Resolution No. 98-12-9-19, the Board approved the Project Design Concept and the acquisition of fee or other interests in portions of certain real properties for construction of Jasper Road Extension between Main Street and Jasper Road; and

WHEREAS, said Order and Resolution contained a condition that the construction of the project was contingent upon Lane County receiving title to the necessary right of way between Mt. Vernon Road and Jasper Road at no cost to the County; and

WHEREAS, McDougal Brothers Investments own land along the southerly section of the proposed alignment which is served by a railroad spur track which will need to be relocated or discontinued to allow construction of the proposed roadway and is unwilling to dedicate the required right of way without receiving compensation for the spur track; and

WHEREAS, the cost of relocating said spur track is estimated to be between \$450,000 and \$497,900 and the City of Springfield has committed funding in an amount not exceeding \$422,900 to compensate the owners for the loss or relocation of the spur track; and

WHEREAS, McDougal Brothers has signed an Agreement and Supplemental Agreement proposing that Lane County contribute the additional \$75,000 compensation; and

WHEREAS, sufficient funding has been allocated in the 2003-2004 Capital Improvement Program for the purchase of right of way for this project; and

WHEREAS, in view of the overall public benefit to be derived from the construction of the project; **NOW THEREFORE**

IT IS HEREBY ORDERED, that the County Administrator is authorized to execute the Agreement and Supplemental Agreement.

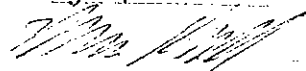
IT IS FURTHER ORDERED that the above Order be entered into the records of the Board of County Commissioner's Journal of Administration.

DATED this _____ day of _____, 2004.

Chair,
Lane County Board of Commissioners

APPROVED AS TO FORM

Date 5-4-04 Lane County



CL