

AGENDA COVER MEMO

DATE: September 18, 2007 (Date of Memo)
September 19, 2007 (Date of Meeting)

TO: Board of County Commissioners

FROM: LCOG, Milo Mecham, Principal Planner

TITLE: Order No. 07-_____ IN THE MATTER OF ORDERING THE ACCEPTANCE OF THE SIXTH AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT FOR THE CREATION OF THE BL3 REGIONAL INVESTMENT BOARD AND THE SIXTH AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT FOR THE REGIONAL INVESTMENT PLAN FISCAL AGENT

I. MOTION

MOVE TO ADOPT ORDER NO. 07 _____ IN THE MATTER OF ORDERING THE ACCEPTANCE OF THE SIXTH AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT FOR THE CREATION OF THE BL3 REGIONAL INVESTMENT BOARD AND THE SIXTH AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT FOR THE REGIONAL INVESTMENT PLAN FISCAL AGENT

II. ISSUE OR PROBLEM

Lane County, along with Benton, Lincoln and Linn Counties form the Benton, Lane, Lincoln, Linn County Regional Investment Board (BL3 RIB). The BL3 RIB depends on an intergovernmental agreement for its continued existence. There is an accompanying intergovernmental agreement that appoints the Cascades West Economic Development District as the fiscal agent.

This legislative session the legislature changed the operational mission and funding of the Regional Investment Boards.

III. DISCUSSION

In its prior discussion of this matter the Board expressed concern about the contract amendments and about the impact on the County of the proposed changes to the operation of the Regional Investment board.

Working with the lead RIB staff at Cascades West Council of Governments, I have developed some proposed modifications to the IGAs that seek to address the Board's desire for more specificity. Again, it is difficult to be as precise about the source of funding as in the past because the legislature did not allocate monies to a specific fund for the work of the RIB, they simply included a discussion of their desires in a budget note. I have attached the note. Regardless of the language, the RIB gets its funds from the legislature, and can only spend the funds authorized by the legislature.

The Board also asked about the importance of the RIB and its future. The funding provided through the program has been a valuable asset in the improvement of the economic vitality of the four county BL3 region. During each of the 2003-05 and 2005-07 biennial sessions the program provided about \$850,000 to be administered by the BL3 board. The funding was allocated to a total of 24 projects which resulted in 1,132 jobs and matching investment of \$38,800,000.

Projects included hi-tech manufacturing, call centers, small manufacturing and local business growth through the Economic Development Alliance of Lincoln County and Linn County Business Development fund. Revolving loan programs administered through Cascades West and Lane Council of Governments also received funding.

This program has ended. The budget notes from the Transportation and Economic Development Subcommittee (dated June 20, 2007), states that the RIBs are to "(m)anage the existing grant and loan portfolios, but cease approving further grants and loans out of funds appropriated for the 2007-09 biennium." It is possible that future legislatures may again modify the direction of the RIBs. For now the RIBS may direct staff to initiate projects and spend money on those projects, but the projects cannot include grants to private entities. (Senate Bill 350, Section 64-3).

The first major project that the legislature indicated that they wanted the RIBs to undertake is the development of a Needs and Issues list. OECDD had asked the legislature to approve another \$100 million in bonding authority for public works infrastructure projects from lottery funds. The legislature asked for a list of projects needing to be funded, and was dissatisfied with the list OECDD provided. They therefore directed OECDD to use the RIBs to develop a list and present it to them prior to the next legislative session. I have included a copy of a summary letter from OECDD and the legislative budget notes. The RIB discussion is on page 6.

The RIBs have been asked to prepare an Issues List that focuses on "specific barriers, opportunities, or regional assets" and the Needs of the region to overcome the barriers and take advantage of the opportunities and assets. This provides an opportunity for the RIB, and its member counties, to review a range of economic development issues and work towards a strategy for infrastructure improvement programs that emphasize economic development. It also provides an opportunity for the County to develop a list of its own infrastructure improvement needs and bring them to the attention of the legislature and a state funding agency through the RIB process. While the original incentive for developing the list concerned the Special Public Works Fund (SPWF), the legislature cast the net of projects more widely than that original intent. For example, the early discussions indicate that transportation related projects on non-federal and non-state highways can be included if there is a significant economic development component to the project. There are also some teeth in the OECDD expectations. Starting in January if applications for such funds as the CDBG program cannot show that they have been included on the local (RIB) inventory, they will not meet the state requirements for funding.

The legislature has decided that it wishes the Regional Investment Boards to develop a Needs and Issues List including infrastructure development projects that can have a significant impact on regional economic development, and that it will tie economic development funding to the RIBs actions. OECDD has followed through with that instruction.

Lane County is at an advantage in that it has a working Needs and Issues inventory process. While most other areas dropped Needs and Issues in recent years when funding disappeared, the Lane Economic Committee saw the need to continue the process. This should give Lane County an advantage in the upcoming RIB process, because the RIB will look to the LEC to help with this new effort and many of the local governments in Lane County have experience with Needs and Issues.

We also know that it must be a regional and statewide effort to satisfy the legislature. When the legislature asked OECDD for infrastructure projects, OECDD asked economic development committees across the state for their needs and issues lists. Lane County was able to respond, but apparently so few others responded that the legislature found the compilation by OECDD inadequate.

IV. Alternatives/Options

The options before the Board are as follows:

1. The Board may take no action. This would create a divided RIB and delay implementation of the legislative mandate.

2. The Board may choose to approve the amendments to the IGAs.
3. The Board may choose to reject the amendments.

D. Recommendation

Staff recommends that the Board adopt the proposed Order.

IV. IMPLEMENTATION/FOLLOW-UP

If the Board adopts the proposed Order, staff will communicate that action to the BL3 staff and to the BL3 RIB. Staff will also obtain executed copies of the agreements and forward them to the RIB for compilation with other county approvals and forward to the State of Oregon.

V. ATTACHMENTS

1. Letter to George Kloeppe from Bob Repine, OECD director.
2. June 20, 2007 Budget Notes
3.
 - a. The proposed Sixth Amendment to the Intergovernmental Agreement for the Creation of the BL3 RIB.
 - b. The full text of the IGA with amendments shown in legislative format
4.
 - a. The proposed Sixth Amendment to the Intergovernmental Agreement to designate Cascades West as the Fiscal Agent for the Regional Investment Board.
 - b. The full text of the IGA with amendments shown in legislative format

O R E G O N

ECONOMIC & COMMUNITY
DEVELOPMENT DEPARTMENT

August 23, 2007

Mr. George Kloeppe
Lane Council of Governments
99 E. Broadway
Eugene, OR 97401

Dear Friends:

The 2007 Oregon State Legislature has asked the Oregon Economic & Community Development Commission to gather information on Oregon's needed infrastructure improvements and to prepare a report and funding request for the February 2008 session. This legislative request was part of a budget note connected with the Oregon Economic and Community Development Department's budget.

In accordance with the Legislative Budget Note, the Commission has contracted with the thirteen Regional Investment Boards to gather information to compile a comprehensive list of infrastructure and other capital improvement needs of counties, cities, ports, tribes and special districts. The Boards will be working closely with you in a tight timeframe to gather this information by December 1, so it can be compiled in a report to the Legislature. This report will provide critical information to the Legislature on the size and scope of infrastructure and capital improvement needs. Also, since OECDD will be using the report to guide funding from its infrastructure programs along with other funding criteria, I strongly urge your participation in this process.

You should be hearing from your Regional Board by mid-September regarding the process for compiling and conveying information on infrastructure projects. At that time, you will be provided with the process and forms to complete this inventory.

Many of you are familiar with the Needs & Issues process, which included a prioritized list of local projects. This inventory, developed using priorities set by the Commission, will be complementary to the Needs and Issues process which Jim Azumano, the Governor's rural policy advisor, is developing.

If you have any questions about the process in your region, I encourage you to contact the Regional Board and/or OECDD staff assigned to your region. A contact list is attached.

I look forward to working with you as we address the Legislative Budget Note, compile your infrastructure needs and prepare for a successful 2008 Legislative session. On behalf of the Commission and OECDD, I thank you in advance for your partnership in this project. We will be updating you regularly on the overall status of this project.

Sincerely,



Bob Repine
Director

GOVERNOR THEODORE R. KULONGOSKI

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JOINT COMMITTEE ON
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MEMORANDUM

To: Transportation and Economic Development Subcommittee
From: Robin LaMonte, LFO
Date: June 20, 2007
Subject: SB 5508 Economic and Community Development Department
Work Session Recommendations

Economic and Community Development Department (OECD) - Agency Totals

	2001-03 Actual	2003-05 Actual	2005-07 Legislatively Approved	2007-09 Governor's Recommended	2007-09 LFO Recommended
General Fund	2,324,751	1,175,089	1,797,951	4,220,781	3,229,105
Lottery Funds	64,600,459	68,126,282	95,494,512	162,336,890	119,684,393
LF Carryover	8,061,414	7,317,000	8,958,780	6,861,705	6,861,705
Other Funds	39,104,753	31,173,025	38,506,442	41,017,546	40,817,546
Federal Funds	35,525,030	29,096,098	36,067,401	36,340,253	36,340,253
OFNL	146,539,302	223,068,617	292,763,338	300,812,712	198,782,633
Total Funds	\$ 296,155,709	\$ 359,956,111	\$ 473,588,424	\$ 551,589,887	\$ 405,715,635
Positions	152	127	121	128	126
FTE	148.10	115.91	118.58	127.92	125.92

Recommendation Summary

The recommended budget for the Economic and Community Development Department is an increase of \$23.5 million General Fund and Lottery Funds (22%) and 5 positions (7.34 FTE) above the adjusted 2005-07 Legislatively Approved Budget. The total budget is a reduction of \$67.9 million from the Legislatively Approved Budget primarily as a result of reductions in Nonlimited Other Funds from a 2005-07 increase of \$46 million for bond proceeds and other technical adjustments. The recommended budget for the OECD is a reduction of \$43.6 million Lottery and General Fund below the budget recommended by the Governor. The budget includes a reduction \$102 million Nonlimited Other Funds from the elimination of a policy package for infrastructure bonding.

Interim instructions to the Economic and Community Development Commission. The Subcommittee has identified a number of issues related to the management of the Economic and Community Development Department (Department) and its accountability for funding and outcomes from its various grant and loan programs. There may also be some interest by the Executive Branch in reviewing the agency during the interim. In order to assure legislative oversight of the agency, and to monitor the results of the legislative changes approved in SB 350, the Subcommittee approves the following budget note:

For the period of July 1, 2007 to February, 2008, the Subcommittee expects the Economic and Community Development Commission to:

LFO Recommendation:

- Approve Package 101 – with \$22,904,000 to fund the Oregon Innovation Economy (Oregon InC).

2. *Package 102 – Innovation & Econ. Strat. Public Affairs*

LFO Recommendation:

- Do not approve Package 102.

3. *Package 103: Telecommunications Fund Shift.* This package shifts \$179,071 from Other Funds to Lottery Funds to maintain support for a position was created as a result of SB 622 (1999), and was funded with Other Funds from revenues generated from that law. This funding has now expired, but there is an ongoing need for a telecommunications specialist within the Department.

LFO Recommendation:

- Approve Package 103 – that shifts \$179,071 from Other Funds to Lottery Funds to maintain a telecommunications specialist position.

4. *Package 104: Workforce Investment.* Not funded. See package 806 that provides an increase of \$1.5 million Lottery Funds for the Strategic Reserve, for workforce and other investments.

LFO Recommendation:

- Do not approve Package 104.

5. *Package 105: Cultural Trust Public Affairs.* This package provides \$192,000 Other Funds from private foundations and interest earnings on the Cultural Trust to support a position to provide overall communications and marketing for the Cultural Trust.

LFO Recommendation:

- Approve Package 105 – includes \$192,000 Other Funds for 1 position (1.00 FTE).

6. *Package 106: Small Business Services* - This package was modified to delete funding for Targeted Service Providers. These providers are funded in package 807. The funding level of \$2.3 million Lottery Funds is equivalent to the historical funding level for Small Business Development Centers.

LFO Recommendation:

- Approve modified Package 106 – includes \$2.3 million Lottery Funds for Small Business Development Centers, with the following budget note:

The Economic Development Commission is directed to establish a performance contract with the Small Business Development Center Network (SBDC) that defines the job creation and retention outcomes that will be achieved based on the funding level provided. OECD will report to the Joint Legislative Audit Committee (JLAC) or other appropriate interim committee on these outcomes. The SBDC will report to the Commission quarterly on its success in achieving these job creation and retention outcomes. The Commission will require independent validation of the data contained in the report. OECD will report to JLAC or other appropriate committee at the meeting closest to September 2008 on the results of the independent validation of outcome data. If the Commission determines that SBDC is not meeting the performance outcomes identified in the contract, the Department shall report this to the Emergency Board, and may recommend appropriate remedial action, including suspension of Lottery Funds payments.

15. *Package 115: Lean and High Performance Mfg.* This package would have provided \$1,000,000 Lottery Funds to provide services to small and medium manufacturing businesses.

LFO Recommendation:

- Do not approve Package 115

16. *Package 117: Business Finance Officer.* This package provides \$150,000 Other Funds for 1 Business Finance Officer position (1.00 FTE)

LFO Recommendation:

- Approve Package 117 with \$150,000 Other Funds for 1 Business Finance Officer position (1.00 FTE).

17. *Package 118: Contracts Specialist.* This package provides \$135,000 Other Funds and \$31,231 Lottery Funds for 1 Contracts Specialist position (1.00 FTE).

LFO Recommendation:

- Approve Package 118 with \$135,000 Other Funds and \$31,231 Lottery Funds for 1 Contracts Specialist position (1.00 FTE).

18. *Package 119 Transportation Liaison.* This package would have provided \$200,000 Other Funds for 1 Transportation Liaison position (1.00 FTE).

LFO Recommendation:

- Do not approve Package 119.

19. *Package 120 Regional/Rural Restoration.* This package would have provided \$4,405,527 Lottery Funds to restore grant and loan funding for the Regional/Rural program, which had been reduced in prior biennia.

LFO Recommendation:

- Approve modified package 120 that provides \$2,000,000 Lottery Funds to maintain the 13 regional economic development boards, with revised instructions as outlined in the budget notes below.

Economic and Community Development Commission: For the period of July 1, 2007 to February, 2008, the Subcommittee expects the Commission to:

- Develop minimum standards for the administration of Regional Economic Development Boards (Boards) and establish a plan for allocating funding to the Boards.
- Determine the capability of each Board to carry out the requirements listed below. Notify the appointing authorities, including cities and counties, for each Board of the findings. Should the Commission determine that a Board is not able to meet the requirements, the Commission will work with the appointing authorities to designate an alternate organization. The Commission may redirect allocated funds to the organization identified by the appointing authorities.
- Develop the criteria for prioritizing regional Needs and Issues and infrastructure projects, and communicate the criteria to the Boards. The Commission should consider the need for infrastructure investment in areas of recent urban growth boundary expansion where population and development growth are targeted to occur when developing its criteria.

~~•~~ Receive the Needs and Issues and infrastructure lists from the Boards, and prepare a consolidated statewide infrastructure priority list. Develop an infrastructure funding request based on the statewide priorities.

- Approve a statistically valid and auditable methodology for prioritizing, funding, tracking and reporting for Board grant and loan activities.

22. *Package 808: Oregon Mainstreet.* This package adds a one-time grant allocation of \$635,431 Lottery Funds for the Oregon Mainstreet program. The package includes 1 limited duration position (1.00 FTE) to support the program.

LFO Recommendation:

- Approve Package 808 with \$635,431 Lottery Funds for the Oregon Mainstreet program. The package includes 1 limited duration position (1.00 FTE) to support the program.

23. *Package 809: Targeted Workforce Training.* This package adds a one-time grant allocation of \$250,000 Lottery Funds for two workforce development programs. One program will provide \$200,000 to Clackamas Community College, subject to a grant agreement that the College will commit to producing 50 truck drivers within the funding allocated. The second grant would provide \$50,000 to Tillamook Bay Community College for the industrial Maintenance Technician Program.

LFO Recommendation:

- Approve Package 809 with \$250,000 Lottery Funds for two targeted workforce development programs.

24. *Package 810: Olympic Trials.* This package adds a one-time grant allocation of \$500,000 Lottery Funds to the City of Eugene for facilities and other costs related to the 2008 Olympic Trials.

LFO Recommendation:

- Approve Package 810 with \$500,000 Lottery Funds to the City of Eugene for facilities and other costs related to the 2008 Olympic Trials.

25. *Package 811 Base Adjustment.* This package deletes the essential budget level funding of \$7,314,401 Lottery Funds for the Regional/Rural Investment program. See package 120 for 2007-09 proposed funding.

LFO Recommendation:

- Approve Package 811 with a base reduction of \$7,314,401 Lottery Funds to the Regional/Rural Investment program.

Motion: Approve the policy option package adjustments and related budget notes.

Performance Measures

LFO Recommendation: Approve the performance measures, with the following recommendations:

- The Department should consider modifying the language in KPM 3 from "amount of estimated" to something like "Personal income tax dollars generated..."

Motion: Approve the key performance measures, and the LFO recommendation.

Agency Budget

LFO Recommendation: Approve the budget for Economic and Community Development Department as detailed on the attached work session action report.

Motion: Approve the budget for the Economic and Community Development Department as detailed on the attached work session action report.

Final Subcommittee Action:

1. **Motion:** Approve the conceptual -1 amendment to SB 5508
2. **Motion:** Move SB 5508 as amended to the Full Joint Committee on Ways and Means with a do pass recommendation.

Attachment 3a

Sixth Amendment
Intergovernmental Agreement
Dated January 1, 2000

among
Benton County
Lane County
Lincoln County
Linn County

For The Creation Of The BL3 Regional Investment Board

The parties agree to amend the agreement as follows:

(New language is underlined; removed language has ~~strikethrough~~)

I. Pursuant to ORS 285B.230 to 285B.269, it is the purpose of this agreement to create the BL3 Regional Investment Board (hereinafter "RIB") which will act in an advisory capacity to the Counties for the purposes of preparing and recommending to the Counties a Regional Investment Plan, including its elements as described below; receiving, distributing and managing regional investment funds and rural investment funds; and preparing required reports to the regional investment program and rural investment program as required in ORS 285B.230 through ORS 285B.263, respectively. The RIB may receive, distribute, and manage funds and execute duties related to the solicitation, gathering and compilation of infrastructure and related development needs, as well as other specific RIB responsibilities, assigned to Regional Investment Boards by the State or by the Counties.

II. Powers, Duties, and Responsibilities of RIB

A. Planning and Implementation. The RIB may undertake any activities required of Regional Investment Boards by the State or by the Counties. The RIB shall be responsible for developing and updating as necessary a Regional Investment Plan containing the elements required by the State and described in ORS 285B.230 through ORS 285B.263, and shall recommend the Plan and its elements to the Counties for approval. These responsibilities include, but are not limited to:

IV. Funding

A. ~~Source of Regional and Rural Funding.~~

1. Acting through the Fiscal Agent to be selected by the Counties, the RIB shall receive Regional Investment and Rural Investment Funds from the State. The RIB shall recommend funding only those projects or expenses that are eligible through the regional investment and rural investment programs as described in ORS 285B.257 and ORS 285B.263. Notwithstanding this prohibition, the RIB may recommend projects that encompass other or multiple funding sources. The expenses may include RIB operations, staff support, and project and activities to implement the Regional Investment Plan and the rural action plan element. In no instance may the RIB recommend expenditures of regional and rural investment funds that are greater than the funds available to the Counties for regional investment and rural investment programs.

~~B. 2. Apportionment of Revenues.~~ All Regional and Rural Investment Fund revenues received by the RIB are to be utilized for the operation and implementation of the regional investment and rural investment programs.

3. Any revenues which are not utilized for this purpose shall be returned to the State of Oregon. The RIB shall recommend to the Counties for approval what it believes are appropriate portions of the Regional Investment Funds and the Rural Investment Funds to be used for technical assistance and staff support for the Fiscal Agent.

This IGA incorporates language from the Amendments as previously approved by the Counties.

INTERGOVERNMENTAL AGREEMENT

**among
Benton County
Lane County
Lincoln County
Linn County**

**FOR THE CREATION OF THE
BL3 REGIONAL INVESTMENT BOARD**

This agreement, effective 01-01-00, is made and entered into among the Counties of Benton, Lane, Lincoln and Linn (hereinafter "Counties.").

I. Pursuant to ORS 285B.230 to 285B.269, it is the purpose of this agreement to create the BL3 Regional Investment Board (hereinafter "RIB") which will act in an advisory capacity to the Counties for the purposes of preparing and recommending to the Counties a Regional Investment Plan, including its elements as described below; receiving, distributing and managing regional investment funds and rural investment funds; and preparing all required reports to the regional investment program and rural investment program as required in ORS 2858.230 through ORS 285B.263, respectively. The RIB may receive, distribute, and manage funds and execute duties related to the solicitation, gathering and compilation of infrastructure and related development needs, as well as other specific RIB responsibilities, assigned to Regional Investment Boards by the State or by the Counties.

II. Structure of the RIB

A. *Membership.* The RIB will be comprised of twenty-one (21) members who represent various local interests including cities, counties, ports, special districts and Indian tribes, and significant representation from the private economic sector. The RIB will include members who are representatives of rural interests, including local government.

B. *Appointments.* Each County has nominated one (1) County Commissioner representative, one (1) city representative and one (1) private economic sector representative. For the purpose of appointing the remaining initial RIB members, each County has also offered a slate of individuals who met the representation requirements of ORS 285.242. The four (4) commissioner members met and selected eight (8) candidates for appointment, two (2) from each County. The four Counties are jointly appointing the initial twenty (20) members to serve on the RIB. The Counties shall also select one candidate from the interested Indian tribes when such candidate is proposed by the tribes or tribe, if only one tribe participates in the program. The appointments shall be for an initial term, beginning March 1, 2000 and ending, December 31, 2001. Each RIB member serves at the pleasure of the County which offered the member's nomination.

C. *Vacancies.* In the event of a vacancy or removal of a RIB member during the term, the initial selecting County shall appoint a replacement within sixty (60) days. Beginning at

1. Developing, updating and recommending a Regional Investment Plan and its component elements and recommending a two-year implementation plan element to the Counties.
 2. Updating and recommending to the Counties a rural action plan element as a component of the Regional Investment Plan, which is consistent with the purpose and objectives of the Rural Investment Fund.
 3. Developing and recommending to the Counties as part of the Regional Investment Plan an element plan for the involvement of disadvantaged and minority groups in the Counties, pursuant to ORS 285B.239(6).
 4. Developing and recommending to the Counties as part of the Regional Investment Plan an evaluation plan element with appropriate performance measures that address regional benchmarks and interim indicators, which the RIB will use to measure and monitor plan performance.
 5. Developing and recommending to Counties as part of the Regional Investment Plan an overall strategy management and project implementation plan element.
 6. In developing the prioritized list of projects and/or activities to be undertaken or funded through the two-year implementation plan element, consulting with the groups and industries set out in ORS 285B.242(4).
 7. Holding a public hearing in each County prior to a vote by each Board of County Commissioners on the adoption of the Regional Investment Plan to be submitted to the Governor for approval.
 8. Periodically proposing amendments to the above actions, as deemed necessary by the RIB.
- B. *Operations and Oversight.* The RIB shall be responsible for policy oversight of the regional investment and rural investment programs. In addition, the RIB shall:
1. Conduct a competitive selection process, which complies with the Public Contract Law to arrive at a list of contractors to recommend to the Counties for award of funds to implement the prioritized projects and activities list. The Counties shall make the final award decisions.
 2. Regularly review periodic performance reports (at least semiannually), utilizing the standards and measures in the evaluation plan element, and submit those reports to the Counties, and the State as required.
 3. Regularly review periodic expenditure reports (at least semiannually) indicating the success of the programs and projects funded with Regional or Rural Investment Funds and submit those reports to the Counties, and the State as required.

IV. Funding

A. Source of Regional and Rural Funding.

any changes it deems appropriate, it shall resubmit the revised implementation plan element to the Counties for review and adoption.

3. The Counties shall award funds for the projects and activities consistent with the approved Plan and implementation plan elements, to be funded by the Regional Investment Funds and the Rural Investment Funds received by the RIB through the Fiscal Agent. The contracts shall be executed and administered by the Fiscal Agent.
 4. The Counties shall receive and review the performance and expenditure reports submitted by the RIB, and provide such direction as is mutually agreed upon by the Counties to the RIB and/or the Fiscal Agent.
- C. *Indemnity.* To the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, each County agrees to indemnify, defend and hold harmless each of its nominated members to the RIB from all claims, lawsuits and actions of whatever nature brought against those parties which arise from activities undertaken pursuant to the performance of this agreement.
- D. *Insurance.* Each County shall ensure that each of its nominated members to the RIB are covered by either its self-insurance program, or is listed as an additional insured on the public liability and property damage insurance policies issued for that County.
- E. *Legal Counsel.* Each County shall provide appropriate legal counsel regarding any legal issues or legal proceedings taken against any individual RIB member appointed by that County related to activities undertaken pursuant to the performance of this agreement. Legal advice shall be provided to the RIB as an ongoing part of the Fiscal Agent services. To the extent there is any additional need for legal counsel for legal proceedings pertaining to the entire RIB and related to activities undertaken in performance of this agreement, the four (4) Counties shall agree as to the provision of such counsel, and the costs for such shall be shared equally among the four (4) Counties.

VI. Severability

The parties 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 provision held to be invalid.

VII. Termination

- A. *Duration.* This agreement shall terminate, June 30, 2009 unless extended by amendment in accordance with this Section VIII of this agreement.
- B. *Mutual Consent.* This agreement may be terminated by written mutual consent of all parties to the agreement. The written termination shall specify the termination date of the agreement.
- C. *Debts, Liabilities and Obligations.* Upon termination, any debts, liabilities and obligations relating to this agreement shall inure to the Fiscal Agent.

VIII. Amendments

No amendment to this agreement shall be effective unless made in writing and signed by all parties. There are no understandings, agreements or representations, oral or written, regarding this agreement except as specified or referenced herein.

IX. Dispute Resolution

Other than appointment or removal disputes covered by Section III above and plan adoption disputes covered by Section VI above, any dispute among the parties arising from the terms or implementation of this agreement, or any claim by any party for breach or enforcement of this agreement, may be submitted upon agreement by all parties, first to mediation and then, if unresolved, to binding arbitration.

X. Execution

This Agreement may be executed in several counterparts, each of which shall be deemed to be an original, and all of which shall constitute but one and the same agreement. The Fiscal Agent shall provide each County with a set of all executed counterparts. By the signature of their authorized representatives below, the parties to this agreement acknowledge that they have read this agreement, understand it, and agree to be bound by its terms and conditions.

Approved by Benton County

By: _____

Date: _____

Approved by Lane County

By: _____

Date: _____

Approved by Lincoln County

By: _____

Date: _____

Approved by Linn County

By: _____

Date: _____

Attachment 4a

Sixth Amendment
Intergovernmental Agreement
Dated January 1, 2000

Between
Cascades West Economic Development District
and
Benton County
Lane County
Lincoln County
Linn County

(To Designate Cascades West Economic Development District as the Fiscal Agent
For the Regional Investment Board)

The parties agree to amend the agreement as follows (New language is underlined):

Introduction

This Agreement is made and entered into under the authority of ORS 190.010, effective, 01-01-00 by and between the Counties of Benton, Lane, Lincoln and Linn (hereinafter "Counties") and Cascades West Economic Development District (hereinafter, "Fiscal Agent"), formed pursuant to ORS 190 on May 20, 1985 by and between Oregon District 4 Council of Governments (now Oregon Cascades West Council of Governments) and Lane Council of Governments.

I. Purpose

It is the purpose of this Agreement to designate the Cascades West Economic Development District as the Fiscal Agent and administrative agent for the Counties to aid them in performing their responsibilities pursuant to state statute and administrative rule for the regional investment program and the rural investment program, and to provide the necessary level of staff support and technical assistance to the Regional Investment Board (hereinafter "RIB") to enable it to perform its duties under the Intergovernmental Agreement dated 01-01-00 among the Counties. As Fiscal Agent, Cascades West Economic Development District shall also provide administration of the Counties' Regional Investment Plan (hereinafter, "Plan") including its two year implementation plan element, and provide a prudent level of administration of the regional investment and rural investment programs and other related tasks required by the State on behalf of the Counties, or required by the Counties.

II. Powers and Responsibilities of Fiscal Agent

The Fiscal Agent shall have the following powers, duties and responsibilities:

A. To provide, consistent with the budget, all necessary support and technical assistance to the RIB to enable it to perform the duties and responsibilities described in the IGA, including but not limited to:

9. Completing other tasks required by the State or by the Counties.

B. On behalf of the RIB, to receive all Regional Investment and Rural Investment Funds from the State and any other funds made available to regional investment boards for the purposes of economic development work required by the State or by the Counties. In connection with the management of those funds, the Fiscal Agent shall:

This IGA incorporates language from the Amendments as previously approved by the Counties.

**INTERGOVERNMENTAL AGREEMENT
Between**

Cascades West Economic Development District

**Benton County
Lane County
Lincoln County
Linn County**

This Agreement is made and entered into under the authority of ORS 190.010, effective, 01-01-00 by and between the Counties of Benton, Lane, Lincoln and Linn (hereinafter "Counties") and Cascades West Economic Development District (hereinafter, "Fiscal Agent"), formed pursuant to DRS 190 on May 20, 1985 by and between Oregon District 4 Council of Governments (now Cascades West Council of Governments) and Lane Council of Governments.

I. Purpose

It is the purpose of this Agreement to designate the Cascades West Economic Development District as the Fiscal Agent and administrative agent for the Counties to aid them in performing their responsibilities pursuant to state statute and administrative rule for the regional investment program and the rural investment program, and to provide the necessary level of staff support and technical assistance to the Regional Investment Board (hereinafter "RIB") to enable it to perform its duties under the Intergovernmental Agreement dated 01-01-00 among the Counties. As Fiscal Agent, Cascades West Economic Development District shall also provide administration of the Counties' Regional Investment Plan (hereinafter, "Plan") including its two year implementation plan element, and provide a prudent level of administration of the regional investment and rural investment programs and other related tasks required by the State on behalf of the Counties, or required by the Counties.

II. Term of Agreement

This Agreement shall begin on the date as set out above and shall expire on June 30, 2009.

III. Attachments

The following attachments by reference are hereby incorporated into and made a part of this Agreement:

Exhibit A - Intergovernmental Agreement among Counties for the Creation of the BL3 Regional Investment Board, dated January 2000 (hereinafter "IGA".)

Exhibit B - Budget/Compensation Schedule

IV. Powers and Responsibilities of Fiscal Agent

The Fiscal Agent shall have the following powers, duties and responsibilities:

will further;

- c) a description of the process to be used by the RIB to solicit input and participation of rural areas;
 - d) a plan for how the economic and community development projects and activities will be selected for funding;
 - e) any other elements required by the State to be incorporated into a Rural Action Plan.
4. In developing the prioritized list of projects and/or activities for the two-year implementation plan element, facilitating the consultation by the RIB of the groups and industries described in ORS 285B.242(4).
 5. Staffing and facilitating the RIB public hearings in each County.
 6. Presenting to the Counties the Plan, including its elements, as developed by the RIB, facilitating each County's adoption process and arranging for submittal of the Plan and its elements to the State.
 7. Drafting and making revisions to any of the Plan, plan documents and reports as requested by the RIB or the Counties or as required by the State.
 8. Preparing at least semiannual performance reports and expenditure reports as described in the IGA, and submitting them to the RIB. Upon approval by the RIB, submitting the reports to the Counties, and as necessary to the State.
 9. Completing other tasks required by the State or by the Counties.
- B. On behalf of the RIB, to receive all Regional Investment and Rural Investment Funds from the State and any other funds made available to regional investment boards for the purposes of economic development work required by the State or by the Counties. In connection with the management of those funds, the Fiscal Agent shall::
1. Adopt a budget in accordance with ORS 294.900~294.930 for utilization of those funds which is consistent with the Plan and its two-year implementation plan element.
 2. Maintain separate accounts or segregated funds for all revenues, and maintain discrete accounting records for expenditures, revenues and cash balances as required by the State and in accordance with any contract between the State and the Fiscal agent, and in accordance with the IGA. Maintain accounting policies, practices and procedures that are consistent with generally accepted accounting principles and in accordance with applicable statutes and regulations.
 3. Recommend to the RIB and Counties only those expenditures which are consistent with applicable statutes, the adopted Plan and the IGA, and which are necessary for the operation and implementation of the Regional Investment and Rural Investment programs.
 4. Recommend to the RIB and Counties for inclusion in the Plan or the

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- H. To file, retain, dispose of, or allow inspection of public records as required by State of Oregon Public Records Law.
- I. To obtain and at all times during the duration of this Agreement keep in effect comprehensive liability insurance and property damage insurance covering the contracted activities. Said insurance shall, at a minimum, provide for:
 - 1. Coverage at the Oregon Tort Claims Act limits;
 - 2. \$50,000 to any claimant for any number of claims for damage to or destruction of property including consequential damages, arising out of a single accident or occurrence;
 - 3. \$100,000 to any claimant as general and special damages for all other claims arising out of a single accident or occurrence, unless those damages exceed \$100,000, in which case the claimant may recover additional special damages, but in no event shall the total award of special damages exceed \$100,000;
 - 4. \$500,000 for any number of claims arising out of a single accident or occurrence.
- J. To provide Certificates of Insurance to the Counties upon request. These Certificates shall contain a provision that coverages afforded under the policies cannot be canceled and restrictive modifications cannot be made until at least thirty (30) days prior written notice has been given to the Counties.
- K. To secure legal counsel regarding any legal issues or legal proceedings taken against the Fiscal Agent or any employees of the Fiscal Agent relating to their activities pursuant to the performance of this Agreement.
- V. Duties and Responsibilities of the Counties.

The four Counties shall have the following duties and responsibilities:

 - A. To make timely appointments to the RIB, consistent with the applicable statutes.
 - B. To review and consider for approval the Plan, including its elements as required by the State and recommended for approval by the RIB. The Counties shall resolve disputes regarding the Plan pursuant to the IGA.
 - C. To review and consider for approval revisions to the planning documents required by the Oregon Economic and Community Development Department, upon receipt of recommendations from the RIB.
 - D. To review and consider the award of funds to implement prioritized projects and activities described in the two-year implementation plan element, based upon a lawful competitive selection process and the recommendation of the RIB and the Fiscal Agent. The award decision shall be made by a majority of the Counties, with each County having one vote.
 - E. To receive and timely review the performance and expenditure reports submitted by the RIB and to collectively provide such comments and directions to the RIB and/or Fiscal Agent.

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written mutual consent of all parties.

- D. Upon termination, any debts, liabilities and obligations relating to this agreement shall inure to the Fiscal Agent.
- E. Upon termination, any assets shall be disposed of as follows:
 - 1. Any non-cash assets acquired as a result of the foreclosure of the Fiscal Agent's interests in accordance with contracts shall be liquidated within 90 days of termination and returned pursuant to state statute, administrative rule and contractual obligation.
 - 2. Any other cash or funds in possession of the Fiscal Agent shall be handled in the same manner as non-cash assets, in that it will be returned pursuant to state statute, administrative rule and contractual obligation.

VIII. Dispute Resolution

Unless otherwise provided in this Agreement, all claims, counterclaims, disputes and other matters in questions between the Counties and the Fiscal Agent arising out of, or relating to this Agreement or the breach of it will be decided, if the parties mutually agree, by mediation, or if they fail to agree, by arbitration.

IX. Workers Compensation

The Fiscal Agent, each of the Counties, and their subcontractors, if any, are subject employers under the Oregon Worker's Compensation Law and shall comply with DRS 656.017, which requires them to provide Worker's Compensation coverage for all their subject workers.

X. Indemnity

The Fiscal Agent shall hold harmless, indemnify and defend the Counties up to the limits of the Oregon Tort Claims Act, from any and all liability, actions, claims, losses, damages, or other costs including attorney's fees and witness costs (at both trial and appeal level, whether or not a trial or appeal ever takes place) that may be asserted by any person or entity' arising from, during, or in connection with the performance of its duties described in this agreement, except liability arising out of the sole negligence of the Counties. If any aspect of this indemnification shall be found to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the indemnification.

XI. Amendments

No amendment to this agreement shall be *effective* unless made in writing and signed by all parties. There are no understandings, agreements or representations, oral or written, regarding this agreement except as specified or referenced herein.

XII. Severability

If any provisions of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

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Date: _____