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BEFORE THE BOARD OF COMMISSIONERS

FOR LINCOLN COUNTY, OREGON

ORDINANCE # 359

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**Relating to ratification of an intergovernmental agreement creating the Oregon Cascades West Council of Governments; creating new provisions; and declaring an emergency.**

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WHEREAS the Cascades West Council of Governments (CWCOG) was created by an Intergovernmental Agreement on the 1<sup>st</sup> day of September, 1970, pursuant to ORS chapter 190; and

WHEREAS the CWCOG wishes to become an intergovernmental entity and exercise the powers of an intergovernmental entity provided in ORS 190.080; and

WHEREAS creation of an intergovernmental entity requires that an intergovernmental agreement be drafted creating the intergovernmental entity, and that each of the parties to the intergovernmental agreement enact an ordinance ratifying creation of the intergovernmental entity prior to the effective date of the intergovernmental agreement; and

WHEREAS the attached Articles of Agreement create the Oregon Cascades West Council of Governments ("OCWCOG"), and Lincoln County desires to be a party to the attached Articles of Agreement, and to ratify the creation of OCWCOG as an intergovernmental entity; therefore, the Lincoln County Board of Commissioners ordains as follows:

NOTE: Matter in boldfaced type in an amended section is new; matter [*italic and bracketed*] is existing ordinance to be omitted. New sections are in boldfaced type.

1            **SECTION 1.**

2            Section 2 of this Ordinance is added to and made a part of LCC chapter 7, as indicated.

3            **SECTION 2.**

4            **7.705 Ratification of Creation of Oregon Cascades West Council of Governments**

5            **(1) The Lincoln County Board of Commissioners hereby declares its intent, by**  
6            **enactment of the ordinance creating this section, to create an intergovernmental entity**  
7            **by intergovernmental agreement, namely the Oregon Cascades West Council of**  
8            **Governments (“OCWCOG”), the intergovernmental agreement (“Articles of**  
9            **Agreement”)** for which is attached to and made a part of the ordinance creating this  
10           **section. Any amendment to the Articles of Agreement will made pursuant to the**  
11           **Articles of Agreement.**

12           **(2) The effective date of the Articles of Agreement shall be the first date on**  
13           **which two-thirds of the members of the existing Cascades West Council of**  
14           **Governments (“CWCOG”), plus one, have enacted ordinances ratifying the creation of**  
15           **OCWCOG as an intergovernmental entity.**

16           **(3) The public purposes for which the OCWCOG is created, and the powers,**  
17           **duties and functions of the OCWCOG, are set forth in the Articles of Agreement.**

18           *////*

19           *////*

20           *////*

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1

**SECTION 3.**

2

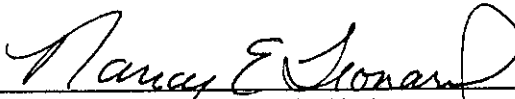
This Ordinance being necessary for the immediate preservation of the public peace, health

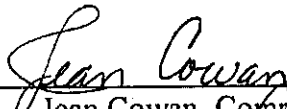
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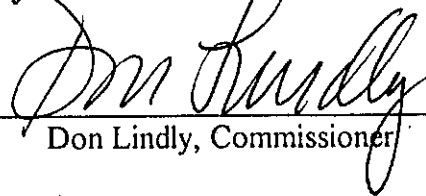
and safety, an emergency is declared to exist and this Ordinance shall take effect upon its passage.

DATED this 19<sup>th</sup> day of June, 1996.


LINCOLN COUNTY BOARD OF COMMISSIONERS

  
\_\_\_\_\_  
Nancy E. Leonard, Chair

  
\_\_\_\_\_  
Jean Cowan, Commissioner

  
\_\_\_\_\_  
Don Lindly, Commissioner

ATTESTED TO:

  
\_\_\_\_\_  
Susan Kays, Recorder

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Wayne Belmont, County Counsel

NOTE: Matter in boldfaced type in an amended section is new; matter [*italic and bracketed*] is existing ordinance to be omitted. New sections are in boldfaced type.

## ARTICLES OF AGREEMENT

### OREGON CASCADES WEST COUNCIL OF GOVERNMENTS

#### Article I.

Name. The name of this organization shall be: OREGON CASCADES WEST COUNCIL OF GOVERNMENTS (OCWCOG), hereinafter referred to as the "Council".

#### Article II.

Authorization. The authorization for the establishment of this organization as an intergovernmental entity<sup>1</sup> is set forth in state enabling legislation (ORS 190.003 to 190.110, as currently existing and as amended hereafter<sup>2</sup>) and by agreement of its members.

#### Article III.

##### Purposes:

- A. Investigate and present information on issues involving the region's physical and social condition;
- B. Facilitate regional communication on issues of mutual interest;
- C. Provide staff resources for multi-jurisdictional planning programs;
- D. Provide staff for multi-jurisdictional program operation;
- E. Offer staff resources to local governments to carry out programs or activities when such an arrangement would be beneficial; and,
- F. Conduct, on behalf of member governments, federal and state programs of a single or multi-jurisdictional nature and/or impact.

#### ARTICLE IV.<sup>3</sup>

Powers, Duties and Functions of the Council. Council shall have the following powers, duties and functions:

- A. Issue revenue bonds under ORS 288.805 to 288.945 to accomplish the

public purposes of the parties to the Agreement if, after a public hearing, the governing body of each of the units of local government that are parties to the Agreement approves, by resolution or order, the issuance of the revenue bonds;

- B. Enter into any agreements with vendors, trustees or escrow agents for the installment, purchase or lease with option to purchase of real or personal property if the period of time allowed for payment under an agreement does not exceed 20 years;
- C. Provide for refinancing outstanding obligations of the Council, including refinancing the existing debt obligation(s) for real property;
- D. Provide for financing of capital improvements for real property of the Council;
- E. Adopt all rules necessary to carry out Council powers and duties under the Intergovernmental Agreement; and
- F. Any and all powers and duties authorized by ORS 190.080 as amended or hereafter amended.

#### Article IV V.

##### Council Governing Board Membership:

- A.
  - 1. Each member unit of government shall be entitled to one representative selected by and from members of its elected governing board to serve on the Council governing board, hereinafter referred to as Board;
  - 2. Each member unit of government shall be entitled to one alternate to represent the member unit of government in the absence of the representative on the governing board and any board or committee of the Council;
  - 3. The intent of the Council is to be a forum for elected representatives. However, if no elected official is available for a specific meeting, the representative or chief elected official of the member government, may assign a staff of that government to attend that meeting. Such appointed representative shall have all rights and responsibilities of the regular representative for that meeting. The delegation shall be made in writing for each meeting, and presented to the Chair of the meeting; and,

4. Representatives and alternates shall hold office until their successors are appointed by the governing board of the member<sup>5</sup>.
- B. The following ~~units of local governments~~ entities<sup>6</sup> shall be eligible for membership in the Oregon Cascades West Council of Governments Council:
1. Any general purpose local government within Benton, Lincoln and Linn Counties;
  2. Any special function entity (e.g. port districts, public utility districts, etc.) within Benton, Lincoln and Linn Counties<sup>7</sup>;
  3. Any public educational institution or ~~district~~ within Benton, Lincoln and Linn Counties<sup>8</sup>; and,
  4. Any federally recognized Indian Tribe within Benton, Lincoln and Linn Counties<sup>9</sup>.
- C. An eligible ~~unit of local government~~ entity may become a member of the Council by ~~adopting an ordinance endorsing the Articles of Agreement~~<sup>10</sup>.
1. ~~Adopting a resolution endorsing the Articles of Agreement;~~
  2. ~~Paying its annual dues.~~
- D. An eligible special function entity may become a member by:
1. Adopting an ~~resolution~~ ordinance<sup>11</sup> endorsing the Articles of Agreement; and,
  2. Receiving an affirmative vote of a majority of the Board accepting their request for membership.
  3. ~~Paying its annual dues.~~
- E. Termination of Membership in the Council:
1. Membership in the Council may be terminated by written notice to the Board no later than May 1, prior to the beginning of the fiscal year in which termination is sought; and,
  2. If the annual assessment of a member is not paid by January 31 of the fiscal year for which it is due, the governing board may either

terminate the membership of that member or grant an extension to, but not beyond June 30 of the fiscal year for which the assessment is due.

#### **Article V VI.**

##### Functions of the Board:

- A. Enter into agreements with the United States, the State of Oregon, members of the Council<sup>12</sup>, public or private agencies, foundations or corporations, and individuals for the purpose of obtaining funding or payment to carry out the objectives, programs and purposes of the Council;
- B. Own or lease equipment and other property in its own name;
- C. Adopt a budget indicating the receipts and expenditures of the Council and establish the amount of financial participation by each member government;
- D. Inform each member government no later than two (2) weeks after a dues rate has been set by the governing Board, of the amount of dues it will be assessed for the following fiscal year;
- E. Seek and accept grants, gifts, loans, and donations in the name of the Council, a member government or governments a member(s), or other public or quasi-public agencies to carry out purposes of the Council or activities directed by the entity for whom the financial assistance is being provided<sup>13</sup>;
- F. Make, adopt, and amend Rules of Procedure and/or Bylaws consistent with this Agreement;
- G. Employ staff, retain consultants, and obtain the personal services of individuals or employees of other agencies;
- H. Establish advisory committees;
- I. Adopt and authorize all advocacy positions of the Council and committees of the Council<sup>14</sup>; and,
- J. Take such other actions as are necessary to enable the Council to carry out those purpose and functions which are consistent with this agreement and state law.

#### **Article VI VII.**

Officers:

- A. The officers of the Board shall consist of a Chair, Vice-Chair, and Treasurer elected from among its members;
- B. Duties:
  - 1. Chair: The Chair shall have general supervisory and direction powers of the Council, shall preside at all Board meetings, shall appoint the members and chairs of all committees except as otherwise provided herein, and shall be a non-voting ex-officio member of all committees of the Council. The Chair is the sole official spokesperson of the Board on all matters of policy and position, unless this responsibility is delegated in writing to another member of the Board, a member of a committee appointed by the Board, or a member of the staff of the Council;
  - 2. Vice-Chair: In the absence of the Chair, the Vice-Chair shall execute all the powers of the Chair; and,
  - 3. Treasurer: The Treasurer shall chair the Finance Committee.
- C. A vacancy in the office of Chair of the Council shall be filled by the Vice-Chair for the unexpired term. In such event, a new Vice-Chair shall be elected at the next regular or special meeting of the Board and shall serve the balance of the term of that office. A vacancy in the office of Vice-Chair or Treasurer shall be filled by election at the next regular or special meeting of the Board, and the replacements shall serve for the balance of the term of that office.<sup>15</sup>
- D. The Chair and Vice-Chair shall not be residents of the same county.

**Article VII VIII.**

Election of Officers:

- A. An election shall be held at each November meeting of the Board. In odd numbered years, a new Chair and Vice Chair shall be elected. In even numbered years, a Treasurer shall be elected. The initial election after adoption of this provision shall be for all three offices;
- B. The Chair shall appoint a nominating committee to propose a slate of officers for the coming year;

- C. Nominations may be made from the floor. Candidates receiving a simple majority vote of those members present at the meeting shall be declared elected; and,
- D. A person may not succeed themselves in the offices of Chair and Vice Chair, except following an appointment to the unexpired term of another person. After a lapse of a year or more, a person may be elected to a previously held office.

#### **Article VIII IX.**

##### Organizational Procedures:

- A. The Board shall meet every other month. A calendar of meetings for the year shall be distributed in January of each year. Regular meetings shall be held on a rotating basis in Benton, Lincoln, and Linn Counties. A quorum must consist of twenty-five percent (25%) of the members of the Board required for official action at any regularly scheduled meeting;
- B. Special meetings may be called by the Chair or by three members of the Board. At least seven (7) calendar days' notice shall be given to the membership for special meetings. A quorum, consisting of a simple majority of the members of the Board shall be required for official action at any regular ~~special~~<sup>16</sup> meeting;
- C. Each representative, alternate or appointed representative, shall be entitled to one vote on matters before the Board;
- D. Except as otherwise provided in these Articles of Agreement, a simple majority of the representatives present and voting shall be sufficient to decide a question before the Board;
- E. Unless otherwise specified, Roberts Rules of Order Revised shall govern the proceedings of the meetings of the Board; and,
- F. If a representative requests a written ballot vote on any issue before the Board, such request shall be granted.

#### **Article IX X.**

##### Standing Committees:

- A. In order to carry out work of the Board, standing committees may be created by the Board. The purpose and scope of activity of each committee shall be outlined by and adopted by the Board. All standing committees are established to facilitate the work of the Board and are advisory to the Board. No committee may take any action independent of the authority granted in writing to the committee by the Board;
- B. Unless otherwise provided herein, each standing committee shall consist of three members of the Board who shall be from three different counties, and such other members as deemed appropriate by the Board. All committee members shall be approved by the Board and serve at the pleasure of the Board;
- C. The Chair of the Board shall appoint all standing committee chairs, who shall serve at the pleasure of the Chair of the Board;
- D. Each standing committee may develop its own by-laws. The by-laws and any amendments thereto must be approved by the Board. In the event by-laws are not approved, committees shall follow standard Robert's Rules of Order; and,
- E. When deemed appropriate, the Board may dissolve a standing committee.

#### Article X XI.

Special Committees and Task Forces. The Board may from time to time authorize and appoint special committees or task forces. Committees and task forces shall exist at the pleasure of the Board and may establish a mission, rules, and/or bylaws for action to be approved by the Board.

#### Article XI XII.

##### Executive Committee:

- A. An Executive Committee is hereby established composed of the three officers of the Council;
- B. The purpose of the Executive Committee shall be to act on administrative matters on behalf of the Board between meetings of the Board. Administrative matters shall include, but not be limited to review and/or approval of: bills, contracts, agreements, grants, lobbying plans presented by Council committees, development of Board agendas, and similar matters of a non-policy making nature;

- C. Regular Executive Committee meetings shall be held every other month in the months a regular Board meeting is not to be held. A schedule of meetings for the year may be adopted at the first meeting of the Executive Committee in a calendar year. Special meetings may be called as deemed necessary by the Chair or by any member of the Committee;
- D. A quorum shall consist of two (2) members; and,
- E. In the event the Executive Committee wishes to poll the membership on a specific issue, it may hold a mail poll for this purpose. Members shall be sent ballots by certified mail and shall have 15 days to return the ballots.

**Article XII XIII.**

Finance:

- A. Revenues of the Council shall be from member contributions, grants, gifts, donations, fees or other payments received for purposes consistent with Council functions;
- B. Expenditures shall be to accomplish the purposes of the Council.
- C. The fiscal year of the Council shall begin July 1 and end June 30 of the following year;
- D. A Finance Committee consisting of the officers of the Board and chairs of standing committees shall be responsible for financial matters of the Council, including:
  - 1. Review of expenses on behalf of the Board;
  - 2. Recommending a dues rate for the following fiscal year to the Board at the January meeting;
  - 3. Preparing a draft budget for the Council in a manner consistent with state law; and,
  - 4. Developing policies concerning financial and contracting procedures.
- E. Each year, Council financial records shall be audited in accordance with state law, appropriate federal program guidelines, and generally accepted auditing standards; and,

F. A separate fund shall be established for both the Senior Services and "Meals on Wheels" Programs. The Board shall maintain such funds separate and apart from the general fund of the Council. ~~These special conditions shall be followed regarding these funds:~~

1. Revenues from grants, gifts, donations, or other payments earmarked for Senior Services or "Meals on Wheels" shall be placed in separate funds, with such funds to be utilized solely for the operation of the Senior Services or "Meals on Wheels" programs or its successor programs;
2. In the event that the Council of Governments discontinues the provision of this service, funds within these accounts shall pass to the successor agency(s) serving all or part of Linn, Benton and Lincoln Counties. In the event there is no successor agency, the funds will be transferred in three equal amounts to the United Ways of Linn, Benton and Lincoln Counties. In the event a United Way program does not exist in one or more of the three counties, the funds for those counties will be transferred to the respective county government(s) to be spent on a worthwhile social service program;
3. No amendment of this section of Article ~~XII XIII~~ nor any change in the use of these separate funds shall be approved, except upon the approval of at least two-thirds of the Board representatives present at an official meeting of the entire Board; and,
4. Except as specifically modified herein, all provisions of Article ~~XII XIII~~ concerning finance shall be applicable to these separate funds.

#### Article ~~XIII XIV~~.

Staff. The Board may appoint an Executive Director who shall administer the business of the Council. Under the guidelines of the approved budget, the Executive Director shall employ such professional, technical and clerical staff as needed to carry out the work of the Council. The Executive Director shall sign contracts, agreements and other official documents within guidelines established by the Board.

#### Article ~~XV~~<sup>17</sup>

Dissolution. ~~The Council may be dissolved at any time by a unanimous vote of all the parties to the agreement.~~

**A** Upon dissolution of the Council, distribution of all assets of the Council shall be made to the current parties to the agreement in the same proportion to the total dues assessment for the current fiscal years, as each party was individually assessed.

1. However, any proceeds from the sale of an asset, the purchase liability of which was assumed by one or more parties, in accordance with ORS 190.080 (5), shall accrue to the parties originally liable, in proportion to their combined dues for the current fiscal year; OR,

2. In the event the liability was assumed in some specific manner/amount, the distribution of proceeds from the sale of the asset shall be made in the same specific manner proportional to the amount of the total liability originally assumed and/or specified in a separate agreement.

**B** Upon dissolution of the Council, any outstanding indebtedness or other liabilities of the Council shall be assumed by the parties to the agreement in the same proportion to the total dues assessment for the current fiscal year, as each party was individually assessed.

1. However, any indebtedness or liability which was assumed by one or more parties, in accordance with ORS 190.080 (5), shall be born by the parties so liable, in proportion to their combined dues; OR,

2. In the event the liability was assumed in some specific manner/amount, the remaining indebtedness or liability shall be born in the same specific manner proportional to the amount of the total liability assumed.

**C** If during the course of operation a member government made some specific financial or asset contribution to the Council, for which the member was to be repaid, such repayment shall be made in full, prior to the distribution of assets described in A above.

## **Article XV XVI.**

**Amendments.** Amendments to the Articles of Agreement may be made at any meeting of the Board. A copy of the proposed amendment and the reasons for the amendment shall be presented to the Chair not less than 60 days prior to the meeting at which the amendment is proposed to be adopted. The Chair shall provide a copy of the proposal to each representative at least thirty (30) calendar days prior to the meeting. An amendment to the Articles of Agreement must be approved by a vote equal to one vote

greater than a two thirds majority of the representatives present and voting at a meeting of the Council, and, then subsequently ratified by two thirds plus one of the member agencies.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in the names of the respective member agencies by resolution ordinance<sup>18</sup> adopted by the governing bodies, signed by the Chief Executive, as appropriate, duly attested to by the respective clerk, recorder or secretary with the corporate seals of said member governments being duly attached thereto.

As amended June 26, 1974; November 24-25, 1975; February 18, 1977; February 20, 1981; March 10, 1984; June 27, 1986; June 25, 1987; June 30, 1988; approved November 15, 1990, ratified February 16, 1991, amended May 16, 1991; amended November 12, 1992, ratified January 16, 1993; amended May 16, 1996.

## ENDNOTES

The following notes provide basic information regarding the reasoning behind proposed changes to the Articles of Agreement that will be acted upon at the May 16 TH meeting of the Board.

1. ORS 190 allows local governments to work together formally under several arrangements. One arrangement is to create an new "entity" which is vested certain powers and authority to carry out on behalf of the parties ("members" in the case of Council. The statutory authority to create such an entity was made more explicit in a recent amendment to the statute, therefore making it appropriate to amend the Council articles as proposed in this paragraph.
2. Council attorneys recommend adding this wording to make explicit that amendments to the State statute will not require amendment of Council Articles unless desired by the membership.
3. Council attorneys, and the Bond Counsel assisting with the refinancing of the Cascades West building in Albany, recommend this new Article to explicitly give Council the authority to finance and refinance real property and capital improvements to property owned by the Council. The wording is consistent with the general bonding authority stated in ORS 190.
4. The Executive Board felt that the "intent" should be emphasized to encourage members to send elected rather than appointed persons to Board meetings.
5. The authority of each member to appoint their Board representative has always existed. The new wording is proposed simply to clarify who appoints representatives. In the past, members have asked for clarification.
6. Not all members are local governments, therefore "entities" is proposed as a more inclusive word.
7. Clarifying language. This is not a substantive change. It was always assumed that any special function member would be located, at least in part, within Linn, Benton or Lincoln counties.
8. Clarifying language. This is not a substantive change. The word "district" is recommended to be added to allow for membership by an Educational Services District. Council does not now have as a member educational institutions nor districts. However, other COGs in Oregon do have such members.

9. The Confederated Tribes of the Siletz is currently a member of Council. Given the special federal status of recognized Native American tribes, it would be appropriate to specifically authorize their membership in the bylaws consistent with listing other types of governments.

10. Two changes are recommended in this paragraph. First, changes in the State statute make it clear that a member or potential member must act by ordinance to initiate membership and/or to ratify changes to these Articles (ORS 190.085. Secondly, the Articles discuss payment of dues elsewhere, therefore, the requirement to pay dues as a condition of membership seems a bit inappropriate in this section.

11. Refer to endnote 10 above.

12. The recommended language simply makes it explicit that the Council can contract for services with members of the Council. Current the Council has many contracts with members.

13. The recommended new wording explicitly states that the Council staff may be asked to administer a particular grant, etc., on behalf of a member. The grant funded project may not be an activity defined within the "purpose" statement in these articles, other than to carry out special staffing activities for members.

14. Recommended added language to make it explicit that advisory committees of the Council must not advocate in the name of the Council nor the committee, without first having the advocacy positions approved by the Council Board.

15. The proposed language describes a procedure to follow in the event of a vacancy in the office of Vice-Chair or Treasurer. How to fill such vacancies is not currently addressed.

16. Current language was in error. This paragraph was meant to refer to "special" meetings of the Board, not "regular" Board meetings.

17. The proposed new article describes how the assets and liabilities of the Council would be distributed to members if the Council were to dissolve. Language describing these processes is now required by ORS 190.080(5), to be included in the Articles of Agreement. There are options as to the process to be followed. Some of the more obvious choices will be described in a separate memorandum.

18. The most recent amendment of ORS190 by the state Legislature calls for adoption and amendment of Articles of Agreement by ordinance of the members, rather than by resolution. Previously,

Council considered amendments to the articles to be approved if a member acted by resolution, ordinance or motion.