

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

In the Matter of the Resolution  
Authorizing Columbia County's  
Participation in the Special  
Advocacy Fund

RESOLUTION NO. 73-2009

WHEREAS, the County has a statutory right to share in annual receipts from the O&C lands; and

WHEREAS, it is in the interest of the County to participate in activities affecting the O&C lands and revenues received on account of those lands, in order to protect, preserve, and enhance the County's interests in the O&C lands and O&C related revenues; and

WHEREAS, the County is a member of the Association of Oregon and California Land Grant Counties (the "Association") and the Association, on behalf of its member counties, engages in activities affecting the management of O&C lands and O&C related revenues in order to protect, preserve, and enhance the interests of the Association's members; and

WHEREAS, members of the Association entered into an intergovernmental agreement in 1989 establishing reserve funds for the purpose of generating revenues to be transferred to the Association to enable the Association to carry out its services and projects on behalf of and for the benefit of the member counties (the "Endowment Fund"); and

WHEREAS, the Endowment Fund's initial term expired on November 1, 1999, but was extended for a second term, under an agreement for a "Second Endowment Fund", through November 1, 2009; and

WHEREAS, the earnings from the Second Endowment Fund enabled the Association to carry out activities in furtherance of the County's interests, and continuation of funding for the Association's efforts after November 1, 2009, is necessary to protect the County's interests in the O&C lands and O&C related revenues in the coming years; and

WHEREAS, the County desires to participate in a Special Advocacy Fund until November 1, 2012, for the purpose of funding the services of the Association and its contractors, including advocating for continuation of federal legislation that provides payments to counties in lieu of shared timber receipts;

NOW, THEREFORE, BE IT RESOLVED as follows:

- I. Upon expiration of the Second Endowment Fund (the "Intergovernmental Agreement Concerning Funding of Association of Oregon and California

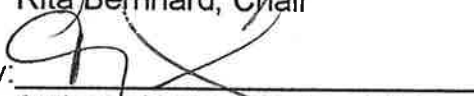
Land Grant Counties”) on November 1, 2009, this County shall participate in an agreement in the form attached hereto (the “Intergovernmental Agreement for Establishment of Special Advocacy Fund”) which is hereby approved and adopted. Commissioner Rita Bernhard is authorized, in the name of the County, to execute said agreement, and to take all other action necessary or convenient in connection with execution and delivery of said agreement;


2. That the County shall participate in the Special Advocacy Fund pursuant to ORS 294.525 for the purpose of financing the cost of services, projects and activities designed to protect, preserve and enhance the County’s interest in the O&C lands and O&C related revenues by transferring funds from said Special Advocacy Fund to the Association, in the amounts and at the times and for the purposes stated in the agreement;
3. That the Special Advocacy Fund shall have a duration of three years from November 1, 2009, and that the balance of the County’s deposit Special Advocacy Fund upon termination on November 1, 2012, shall be transferred to the general fund of the County as provided in the agreement attached hereto;
4. The Special Advocacy Fund shall be held, invested and administered as provided in the agreement attached hereto.

Dated this 28<sup>th</sup> day of October, 2009.

BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

By:   
Rita Bernhard, Chair

By:   
Anthony Hyde, Commissioner

By:   
Earl Fisher, Commissioner

Approved as to form

By:   
Office of County Counsel

## **INTERGOVERNMENTAL AGREEMENT FOR CREATION OF SPECIAL ADVOCACY FUND**

This Agreement is effective according to its terms as of November 1, 2009 and is among the counties in the State of Oregon listed on Exhibit A (the "Counties"), to be attached hereto on or before December 31, 2009.

### **Introduction and Purpose**

The Counties historically received revenues annually from the revested Oregon and California Railroad Grant Lands (the "O&C Lands"). Such revenues (the "O&C Revenues") were derived primarily from the sale of timber from land within western Oregon that is administered by agencies of the United States. In order to protect the interests of the Counties in the O&C Lands and O&C Revenues and to monitor, coordinate and influence the activities of the agencies of the United States, courts, federal and state legislative representatives, and others with respect to any matter that might affect management of the O&C Lands or the O&C Revenues or the Counties' interests therein, the Counties formed and participate in the Association of Oregon and California Land Grant Counties (the "Association").

Because of developments adversely affecting forest and timber management and the levels and allocation of revenues from timber sales generally and the O&C Revenues in particular, the Counties desired to provide a secure source of funding for the operation and activities of the Association. The Counties agreed in 1989 to set aside money and to transfer the earnings from such money to the Association for the Association to carry out its activities for the benefit of the Counties. The mechanism for said funding was an intergovernmental agreement (the "First Endowment Fund Agreement") with a term expiring November 1, 1999.

As timber harvests and shared timber receipts declined in the 1990s, a substantial part of the Association's efforts were directed at securing federal legislation that provided temporary "safety net" payments to Counties in lieu of shared timber receipts. The First Endowment Fund Agreement enabled the Association to successfully advocate for creation of a series of such safety net programs. When the First Endowment Fund Agreement expired in 1999, the Counties continued support of the Association's activities by extending the Endowment Fund for an additional 10 years as set forth in a Second Endowment Fund Agreement. Under the Second Endowment Fund Agreement, the Association continued its advocacy for continuation of safety net programs, the most recent of which will end in 2011. The Second Endowment Fund Agreement will expire on November 1, 2009. In order to insure the Association has the means to continue its activities, including advocacy for a continuation of safety net payments after 2011, the Counties wish to continue financial support for the Association's activities according to the terms of this Agreement

### **AGREEMENT**

The Counties, acting pursuant to ORS 190.003 to 190.110 for their mutual benefit, agree as follows:

1. Creation of a Special Advocacy Fund. The Association is authorized to retain all amounts otherwise returnable to the undersigned County upon termination of the Second Endowment Fund Agreement. The amount associated with each County participating in this Special Advocacy Fund Agreement is listed on Exhibit A hereto (collectively, the "Deposits").

The Deposits shall be held by the Association as agent for the respective Counties and each Deposit shall be and remain the property of that County, subject to depletion only as provided in this Agreement. The Association shall hold such amounts in a separate fund (the "Special Advocacy Fund"). Earnings on the Special Advocacy Fund shall be credited and transferred to the Association and shall be the property of the Association immediately as earned. Only the Deposits shall remain in the Special Advocacy Fund, and the Association shall not commingle other funds with amounts in the Special Advocacy Fund. The earnings on the Deposits shall be the property of the Association, but shall not be considered to be commingled pending withdrawal from the Special Advocacy Fund.

2. Investment of Special Advocacy Fund. The Special Advocacy Fund shall be invested in the State of Oregon Local Government Investment Pool, within the meaning of ORS 294.805 to 294.895. The Special Advocacy Fund shall be invested in the name of the Association. The Association shall have the authority to withdraw earnings from the Local Government Investment Pool at any time and from time to time. Earnings shall be the property of the Association as soon they are earned, even though not yet withdrawn.

3. Scheduled Withdrawals of Principal.

(a) On or after July 1, 2010, and again on or after July 1, 2011, \$250,000.00 shall be withdrawn from the principal of the Deposits, and placed in a separate account of the Association, and thereafter such withdrawn amounts shall be the property of the Association. The amounts withdrawn from the Special Advocacy Fund pursuant to this subsection (a) may be used for any activities and expenses of the Association approved by its Board of Directors according to the Bylaws of the Association, including, but not limited to, activities in support of and advocacy for new federal legislation that would result in safety net payments to Counties in lieu of shared timber receipts, or for implementation of such legislation. The Association may employ persons or engage consultants or other experts with respect to its participation in authorized activities. The Association may spend sums withdrawn from the Special Advocacy Fund under this subsection (a) for overhead of the Association, including but not limited to, office space, supplies and expenses, personnel and accounting, it may contribute to other organizations or entities engaged in any authorized activities, whether or not the Association itself participates with such person or entity, if the Association's Board of Directors determines that such contribution will advance or enhance the purposes and activities of the Association. The amounts withdrawn from the Deposits of each of the Counties under this subsection shall be a credit (offset) against amounts otherwise payable by each such County as annual membership dues in the Association, providing payment in full of the Association membership dues for the Counties for fiscal years 2010/2011 and 2011/2012.

(b) In addition to the withdrawals authorized in subsection (a), additional withdrawals from the principal of the Special Advocacy Fund shall occur, provided that the amounts withdrawn pursuant to this subsection (b) shall be used solely by the Association to fund activities in support of, and advocacy for, new federal legislation that would result in safety net payments to the Counties in lieu of shared timber receipts, or for implementation of such legislation, and provided further that any expenditures in furtherance of advocacy for or implementation of such legislation must be approved by the Board of Directors of the Association, according to the Bylaws of the Association. The withdrawals from the Special Advocacy Fund authorized by this subsection (b) shall be transferred to a separate account of the

Association, and shall upon withdrawal, become the property of the Association, to be used by the Association for the limited purposes authorized by this subsection (b). The scheduled withdrawals authorized by this subsection (b) for the limited purposes authorized herein shall be in the amounts and on the dates as follows:

January 15, 2010	\$250,000.00
July 15, 2010	250,000.00
January 15, 2011	250,000.00

In addition to these scheduled withdrawals, on or after September 15, 2011, the Association is authorized to withdraw an additional amount up to a maximum of \$250,000.00 from the principal of the Special Advocacy Fund, subject to the same limitations on use for advocacy for new federal legislation described elsewhere in this subsection (b), and provided further that this additional withdrawal of principal must be authorized by at least 3/4 of the Board of Directors of the Association. Withdrawals of principal pursuant to this subsection (b) shall be taken from the Deposits for each of the Counties in the same proportion that each of the Counties amount on deposit bears in relation to the total of all Deposits at the time of the withdrawal.

#### 4. Use of Earnings of Special Advocacy Fund.

(a) Monies credited and transferred to the Association from earnings on the Special Advocacy Fund may be withdrawn by the Association from the Special Advocacy Fund and deposited in a fund or account of the Association other than the Special Advocacy Fund prior to any disbursement by the Association. Earnings withdrawn from the Special Advocacy Fund may be placed by the Association in the same account and used for the same purposes as funds from scheduled withdrawals authorized in section 3(a).

(b) The Association may use earnings from the Special Advocacy Fund at the direction of the Board of Directors of the Association directly or indirectly, in the name of the Association or otherwise, for any activities and expenses of the Association approved by its Board of Directors according to the Bylaws of the Association, including, but not limited to, activities in support of and advocacy for new federal legislation that would result in safety net payments to Counties in lieu of shared timber receipts, or for implementation of such legislation. The Association may employ persons or engage consultants or other experts with respect to its participation in authorized activities. The Association may spend earnings for overhead of the Association, including but not limited to, office space, supplies and expenses, personnel and accounting. The Association may contribute to other organizations or entities engaged in any authorized activities, whether or not the Association itself participates with such person or entity, if the Association's Board of Directors determines that such contribution will advance or enhance the purposes and activities of the Association.

© The Association may commit to spend future earnings of the Special Advocacy Fund, provided that future earnings shall not include or contemplate earnings after November 1, 2012; and further provided that any such commitment shall specify that (i) earnings may be disbursed only after they are actually earned, and (ii) pursuant to the terms of this Agreement, the Counties may terminate this Agreement and receive the return of the entire aggregate amount of Deposits remaining in the

Special Advocacy Fund and shall have no liability for payment of any amount in respect of any commitment by the Association.

(d) Earnings on the Special Advocacy Fund shall not affect or be credited against membership dues of the Association or other funding of Association requirements or activities. The Counties shall have no right or power to use or direct the application of any earnings of or derived from the Special Advocacy Fund. No County shall be entitled to any refund of its Deposit in the event that the County withdraws from membership in the Association, except upon termination of this Agreement as provided in Section 6. This Agreement shall not give any County any right, power or privilege with respect to membership in the Association or any participation in the operation or affairs of the Association except as expressly provided in this Agreement and the Bylaws of the Association.

5. Reports. The Association shall provide an annual accounting for the Special Advocacy Fund. The annual accounting shall be prepared as of the end of the fiscal year of the Association and presented along with the annual report at the annual meeting of the Association. The Association shall also provide an annual accounting of withdrawals of principal pursuant to section 3(b), with sufficient detail to inform the Counties that expenditures of such withdrawn funds have been for the limited purposes authorized under section 3(b).

6. Term. This Agreement shall expire on November 1, 2012. This Agreement may be terminated at any time upon the written consent of not less than 3/4 of the Counties. Any termination of this Agreement prior to November 1, 2012 shall be upon the terms and conditions and in accordance with the procedures specified in the written consent adopted by not less than 3/4 of the Counties. Upon termination, the remaining Deposits shall be returned to Counties. Unless otherwise provided by written consent of not less than 3/4 of the Counties, any earnings then available shall be paid to the Counties in the proportions that the amounts of Deposits bear to each other. Earnings are not "available" for such purpose to the extent that the Association has any accrued but unpaid obligations or binding commitments with respect to the earnings. In the event any County that is a party to this Agreement is not a member of the Association upon termination or proposed termination of this Agreement, failure to be a member shall not affect the rights of such County under this Section .

7. Acceptance by Association. This Agreement shall not become effective unless and until the Association accepts the terms of this Agreement and agrees to be bound by its terms.

8. Entire Agreement; Amendment. This Agreement is the entire agreement of the Counties relating to the subject matter hereof and the parties have no other written or oral agreements or understandings except as set forth in this Agreement. This Agreement may be amended only in writing, signed by all of the Counties and accepted by the Association.

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9. Provisions Severable. In the event that any provision of this Agreement is determined by a competent court to be void or unenforceable, such provision shall be severable and the remaining provisions of this Agreement shall continue in full force and effect.

10. Counterparts. This Agreement may be executed in any number of counterparts, all of which shall constitute one and the same agreement.

Dated this 28<sup>th</sup> day of October, 2009.

BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

By: 

Rita Bernhard, Chair

By: 

Anthony Hyde, Commissioner

By: 

Earl Fisher, Commissioner

ENCLOSURE TO ACCOMPANY  
ASSOCIATION OF O&C COUNTIES' PROPOSED  
INTERGOVERNMENTAL AGREEMENT CONCERNING  
SPECIAL ADVOCACY FUND

The amounts of deposits held in the Second Endowment Fund for the respective counties are as follows:

<u>County</u>	<u>Amount</u>	<u>Percentage</u>
Clackamas	\$82,621	3.20
Columbia	62,467	2.42
Coos	178,881	6.92
Curry	110,736	4.29
Douglas	759,461	29.39
Jackson	473,454	18.32
Josephine	360,476	13.95
Klamath	70,985	2.75
Lane	226,065	8.75
Lincoln	10,909	.42
Linn	80,101	3.10
Marion	44,235	1.71
Polk	65,455	2.53
Tillamook	17,037	.66
Washington	19,129	.74
Yamhill	<u>81,821</u>	<u>.85</u>
<b>TOTAL</b>	<b>2,583,830</b>	<b>100.00</b>

Multnomah and Benton Counties are not members of the Second Endowment Fund.