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Public notice was given to *The Register-Guard* for publication on February 6, 1997.

**LANE TRANSIT DISTRICT
BOARD FINANCE COMMITTEE MEETING**

**February 7, 1997
12:00 p.m.**

**LTD CONFERENCE ROOM
3500 E. 17TH Avenue, Eugene
(off Glenwood Blvd.)**

No public testimony will be heard at this meeting.

AGENDA

I. ROLL CALL

Page No.

Hocken _____ Kleger _____ Saydack _____

II. CALL TO ORDER

III. ITEMS FOR INFORMATION AT THIS MEETING

- | | |
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| A. Oregon Transportation Infrastructure Bank | 02 |
| B. Banking Services Request for Proposal | 07 |
| C. Bus Stop Bench Patent | 09 |

AGENDA ITEM SUMMARY

DATE OF MEETING: February 7, 1997

ITEM TITLE: Oregon Transportation Infrastructure Bank

PREPARED BY: Diane Hellekson, Finance Manager

ACTION REQUESTED: None

BACKGROUND: In November 1995, the President of the United States signed Public Law 104-59. Section 350 of that law allows the U. S. Secretary of Transportation to designate up to ten states as pilot projects for State Infrastructure Banks. Each designated state may take up to ten percent of certain federal highway and transit dollars, match them, and put them into a State Infrastructure Bank. The purpose is to create a self-sustaining, growing revolving loan fund.

In November 1996, the Oregon Transportation Commission approved operation of the Oregon Transportation Infrastructure Bank (OTIB). The purpose of the OTIB is to fund transportation solutions, leverage additional funds into transportation, and encourage innovative financing techniques in order to further Oregon's livability and economic competitiveness. The OTIB program arises out of the need to improve, rehabilitate, and renovate transportation facilities.

The OTIB will be capitalized with available federal and state money that the Transportation Commission will choose to designate for this purpose, and with the sale of Infrastructure Bonds. Interest on fund balances and loan repayments also will contribute to available capital. There will be two OTIB accounts: highway and transit. Any transit project that would qualify for Federal Transportation Administration funding will qualify for OTIB loan funds. Interest rates charged will depend on the type of project funded, market interest rates, and other criteria.

The OTIB falls under Oregon Department of Transportation (ODOT) jurisdiction. ODOT asked LTD to submit a funding application so that LTD's project can be used as the basis for ODOT's request for federal transit funds to be allocated to the OTIB. LTD received the OTIB information packet and application on January 14. The formal project funding application was due January 21, 1997.

Because of the extremely short notice LTD was given, it was not possible to brief the Board of Directors on this program and LTD's funding request prior to submitting a funding application. (The funding application does not represent a commitment on LTD's part to participate in this program should the application be approved.) To make sure that Board members have complete information, the Finance Committee will consider the program in advance of the February Board meeting. LTD has submitted a funding request for signal prioritization. A Planning & Development Department representative will attend the Finance Committee meeting to explain the proposal. Planning & Development also will present the program application to the full Board at the February 19, 1997, meeting.

The primary purpose of LTD's funding application is to assist ODOT in its efforts to have Oregon designated one of the ten pilot programs, and, in turn, attract more federal dollars to Oregon transit projects and programs.

ATTACHMENTS: OTIB Program Summary
OTIB Project Summary

PROPOSED MOTION: None

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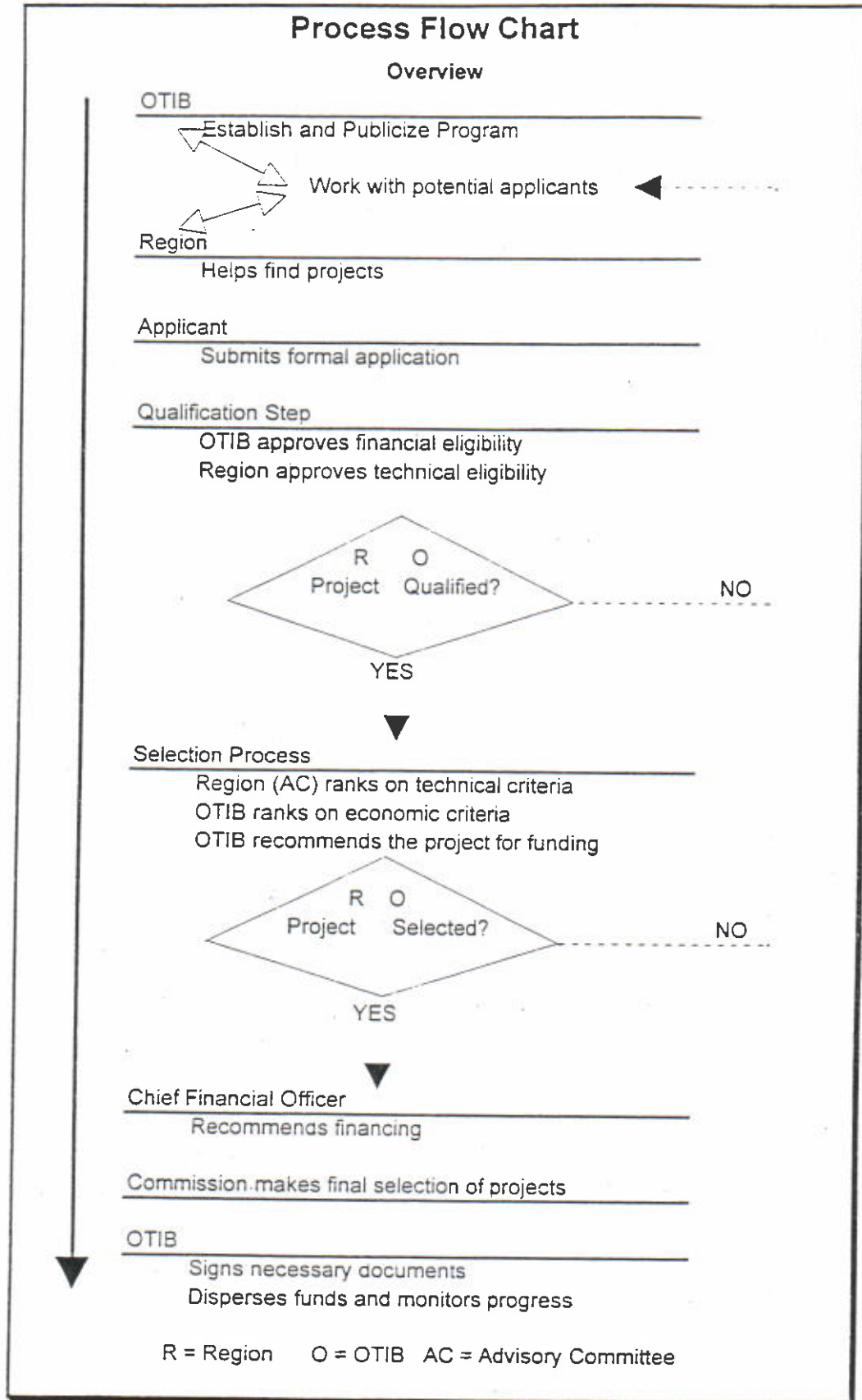
OREGON TRANSPORTATION INFRASTRUCTURE BANK

Program Summary

- Public Law 104-59, Section 350 allows the United States Secretary of Transportation to designate up to ten states as pilot projects for State Infrastructure Banks.
- The Oregon Transportation Commission approved operation of the OTIB in November 1996.
- The Oregon Department of Transportation, which will oversee the OTIB, sent out a preliminary version of the Applicant's Handbook in January 1997. The cover letter specified a formal application due date of January 21, 1997.
- The OTIB will be self-sustaining, growth-oriented fund. Capital will come from federal and state sources, and from interest earned on fund balances and loan repayments.
- Eligible applicants include any public entity that would ordinarily qualify for FTA funds. There are three essential criteria: projects must conform to planning and programming requirements, meet appropriate design standards, and have a demonstrable revenue stream sufficient to minimize OTIB risk. There are also desirable criteria: bring new or innovative funding into transportation, advance a project, further safe transportation, manage traffic growth, support Oregon's economic growth, and enhance quality of life.
- Eligible loan purposes must address an infrastructure need in the area of highways or transit. Projects will qualify if they meet FTA assistance criteria. Projects must also conform to all federal contracting requirements.
- Project assistance will be defined by a Project Agreement between ODOT and each assistance recipient. ODOT's Chief Financial Officer (through OTIB staff) will determine the amount, type, interest rate, and terms of financing. For planning purposes at this time, applicants should assume a 6% interest rate.
- Loan terms cannot exceed thirty years or the project's useful life, whichever is shorter. Repayment must commence no later than five years after the project is completed or equipment is put into service. Projects with earlier repayment and/or shorter amortization period will be more attractive to the OTIB.
- Applicants should expect to pledge revenues as loan security in amounts greater than 1.2 times the anticipated loan repayments.
- ODOT intends to achieve and maintain at least A ratings from at least two of the major bond rating agencies for OTIB underwriting.
- The application process is illustrated on the flow chart which follows.

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Oregon Transportation Infrastructure Bank Applicant's Handbook



OREGON TRANSPORTATION INFRASTRUCTURE BANK

SIGNAL PRIORITIZATION PROJECT SUMMARY

Project Description:

LTD desires the ability to pre-empt traffic signals throughout the major transit corridors in Eugene and Springfield. The bus fleet will be retrofit with signal emitters that will allow buses to reduce or eliminate time spent stopped at intersections with traffic lights. Signal prioritization is an important feature of Bus Rapid Transit (BRT), and will also make fixed-route transit more attractive to riders who have a choice of transportation mode. Bus signal pre-emption will be subordinate to emergency vehicle signal pre-emption.

Project Cost:

The total cost is estimated at \$781,000. (The entire amount has been requested in the OTIB loan application). This amount will provide emitters for 70 buses, modification of intersection controls for 25 intersections, design engineering, and signal software modification.

Timeline:

The project will begin in January 1998 and be completed in January 1999.

Loan Terms Requested:

Loan principal: \$781,000
Repayment period: 10 years beginning in January 1999
Annual payments @ 6%*: \$86,909
Total repayment amount: \$869,090
Revenue pledge required: \$1,042,908
Revenue pledged: Payroll Tax receipts

* 6% is the interest rate suggested by ODOT for planning purposes. The actual rate charged may be different.

AGENDA ITEM SUMMARY

DATE OF MEETING: February 7, 1997

ITEM TITLE: Banking Services Request for Proposal

PREPARED BY: Diane Hellekson, Finance Manager

ACTION REQUESTED: None

BACKGROUND: It is in Lane Transit District's best interest, and that of the public LTD serves, to periodically evaluate banking service options and cost. The last evaluation of banking market options was in 1984, when the closure of Bank of the Northwest required a rapid transfer of LTD accounts. First Interstate Bank was selected at that time, because it was the only local bank willing and able to provide the required services. An agreement was reached with FIB to trade LTD's rolled coin for the cost of banking services, and LTD paid no banking services fees for the duration of its relationship with First Interstate Bank.

The terms of the agreement with FIB were sufficiently favorable, and the quality of the services satisfactory, that evaluating other banking options was not a priority. The takeover of FIB by Wells Fargo Bank, however, has significantly changed both the cost of LTD's banking services and the quality of the services LTD receives. Wells Fargo arbitrarily assigned LTD's bank accounts to new accounts with very high service fees. Monthly banking services costs have gone from nominal to \$1,000. The only relief Wells Fargo can suggest is closing all of our accounts and starting over again. Since most of the new charges LTD is experiencing are what Wells Fargo terms "hard charges," meaning they cannot be offset by compensating balances nor service trades, there would be no advantage to continuing in a relationship with Wells Fargo Bank.

Accordingly, the Finance Department issued an RFP for banking services on January 21, 1997. The RFP was sent to every Lane County financial institution that meets the criteria specified, including Wells Fargo Bank. Proposals are due on February 14, 1997, and a contract is expected to be awarded by March 1, 1997. New banking services resolutions will be presented to the Board of Directors at the regular meeting on March 19, 1997, and new signature cards will be prepared for approval.

ATTACHMENTS: None

PROPOSED MOTION: None

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AGENDA ITEM SUMMARY

DATE OF MEETING: February 7, 1997

ITEM TITLE: Bus Stop Bench Patent

PREPARED BY: Diane Hellekson, Finance Manager

ACTION REQUESTED: None

BACKGROUND: Last summer, Facilities Manager Charlie Simmons, designed a new bus stop bench that was put on display at the Lane County Fair. Subsequently, LTD built several prototypes which were placed in service at bus stops along Coburg Road. Concurrently, research was undertaken to determine if the bench design is patentable. Patent attorney Authur Whinston of Portland was retained to do the required research.

It was subsequently determined that the design can be patented. The cost of the application and legal work is estimated at between \$10,000 and \$13,000. Also required of the patent attorney is a written opinion of what rights the designer has to compensation, or to the design itself should LTD decide not to pursue a patent.

The Finance Committee discussion of this matter will focus on a review of actions taken to date, and consideration of any next steps LTD might wish to take. Next steps could include (but are not limited to) proceeding with the patent application and required legal work, concurrently undertaking research on what the value of a patent might be to LTD, or tabling the matter as inappropriate to LTD's mission. The total cost of obtaining a patent and conducting research on appropriate options for patent use could be as high as \$20,000.

It also should be noted that, because the design has been placed in public use, LTD has one year from the time of placement to file for a patent. Patent rights will be lost if the application is filed after one year.

ATTACHMENTS: Klarquist Sparkman Campbell Leigh & Whinston correspondence of September 10, 1996, and January 29, 1997.

PROPOSED MOTION: None

**KLARQUIST SPARKMAN
CAMPBELL LEIGH & WHINSTON, LLP**

*Patent, Trademark and Copyright Law
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September 10, 1996

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Re: Patentability Search
For: **BUS BENCH FOR BUS SIGN POLE**
Our Ref. No. 5312-45502/ALW

Dear Charlie:

Our Washington associate has completed his patentability search in the files of the Patent and Trademark Office, and we have the results at hand. A copy of his September 3 letter is enclosed, as are copies of the six prior patents noted therein.

Based on the results of the search, which reports that the objective was not found, it is our opinion that you should be able to obtain a utility patent on your bus bench. Although the concept of supporting things like umbrellas and tables by passing vertical members into sleeves and the like, embedded in the ground, seems to be well known, your specific design appears to be new. Thus, claims directed to the new design should be able to be obtained.

Our searcher commented briefly on the specific patents noted, and you can see that they do not disclose your new arrangement.

You will note from our searcher's letter that he consulted Examiner Pete Brown, who our searcher believes is quite familiar with the art in the field. In that sense, the search should be quite reliable.

Our searcher cites in his letter the patent classes and subclasses he searched. Note, however, his comment that file integrity was not verified. That means that it is possible that one or more patents, supposedly in each of the subclass file

Mr. Charlie Simmons
Our Ref. No. 5312-45502/ALW
September 10, 1996
Page 2

drawers, might have been removed, and thus were not there to be found. This, however, presents a relatively minor risk.

The searcher comments that the search could be extended to other fields, but such probably is not warranted considering the purpose of the search.

Only one noted patent is still in force--Kenney, U.S. Patent No. 5,143,108. Its claims are all directed to beach umbrellas, thus there should be no infringement problem.

We enclose our monograph on the scope and limitations of the type of patentability search that was conducted for you.

If you deem your combined bus bench/sign pole to have sufficient economic potential, we should be pleased to prepare and file a patent application on it for assignment to the Transit District.

One final reminder should be taken seriously: your right to a patent will be lost if the invention is illustrated or described in a printed publication in this or a foreign country, or placed in public use or on sale on this country, more than one year prior to the date you actually file your application in the Patent and Trademark Office.

Also, patent protection in what are known as "absolute novelty" countries (which include most of the world except the United States and Canada) will be lost if the invention is made available to the public by any means prior to the date that a first application is filed in any country.

If you have any questions on any of this, please do not hesitate to call.

Very sincerely yours,

KLARQUIST SPARKMAN CAMPBELL
LEIGH & WHINSTON, LLP

Arthur L. Whinston

ALW:rdr

cc: Ms. Phyllis Loobey (w/o encl.)
Joe B. Richards, Esq. (w/o encl.)

LTD BOARD OF DIRECTORS
FINANCE COMMITTEE MEETING

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PURPOSE AND LIMITATIONS OF A
PRELIMINARY PATENTABILITY SEARCH

We ordinarily recommend that a preliminary patentability search be conducted for two reasons. First, the results of such a search give us an idea what the chances are of patenting your invention and, thus, help you determine whether the costs of preparing and filing a patent application would be justified. Second, the search results provide us information that will help us in better drafting your application to explain your invention, how it differs from the prior art, and, hopefully, overcomes the failings of the prior art.

However, we would caution that ordinary preliminary patentability searches are not infallible. Essentially, the search is limited to issued U.S. patents. It cannot cover pending patent applications which may later issue as patents, since these are confidential. It ordinarily does not include foreign patents or patent applications. Similarly, it does not include prior art disclosed in printed publications, such as magazines or textbooks, or which has been in public use or on sale in the United States. Even within the area of issued U.S. patents, the searcher might miss a pertinent patent which is misplaced or filed in a search class in which he did not look.

A search extending into all of these areas would be more expensive than is justified by our concerns at this stage. It could very well cost more than preparation and filing of a patent application. Accordingly, a search of broader scope is only made if specifically requested. Thus, while closer prior art may subsequently turn up during prosecution of a patent application or even after a patent has been granted, we consider a preliminary patentability search worthwhile and ordinarily strongly recommend such a search before filing a patent application.

KLARQUIST, SPARKMAN, CAMPBELL,
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January 29, 1997

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Re: Patent Application
For: **BUS BENCH FOR BUS SIGN POLE**
Our Ref. No. 5312-45502/ALW

Dear Ms. Bailor:

This is in response to your telephone inquiry today.

We estimate the cost of preparing and filing a patent application on Charlie Simmons' bus bench invention to be between \$7,500 and \$10,000. This will include the necessary patent drawings, the government patent application filing fee, and incidental costs, such as postage, Express Mail, telephone, photocopies, and facsimile charges.

Charges will actually be computed on the basis of attorney time expended. My billing rate is \$225 per hour. Necessary patent drawings are prepared by an outside contract draftsman, and we estimate the cost of these to be between \$200 and \$300.

As explained in our telephone conversation, after a patent application is filed, it typically awaits examination by a patent examiner. After the initial examination, the examiner prepares an Office action. Such generally requires a response, the cost of which normally varies between \$500 and \$2,500. We can provide an estimate of the cost of any such response after we receive the examiner's action.

Sometimes a second Office action is received, to which another response may be required. Again, we can provide an

Ms. Jeanette Bailor
Our Ref. No. 5312-45502/ALW
January 29, 1997
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estimate of the cost of any such response after receiving the action involved.

Finally, once a patent application is allowed, there is a required government issue fee which, together with our charges, typically approximates \$1,000.

We trust this is the information you desire. We look forward to receiving Lane Transit District's purchase order in the amount estimated for preparing and filing the patent application.

Very sincerely yours,

KLARQUIST SPARKMAN CAMPBELL
LEIGH & WHINSTON, LLP



Arthur L. Whinston

ALW:rdr

cc: Ms. Phyllis Loobey
Joe B. Richards, Esq.