

ORDINANCE BILL NO. 6 FOR 2005

ORDINANCE NO. 1170

AN ORDINANCE APPROVING PARTICIPATION IN AN INTERGOVERNMENTAL ENTITY, THE LINN COUNTY HOUSING REHABILITATION PARTNERSHIP, AND APPROVING TRANSFER OF ASSETS.

WHEREAS, the City of Sweet Home ("the City") desires to join with other jurisdictions in Linn County, including Linn County and other cities, to provide low cost housing rehabilitation loans and grants to low and moderate income households within the City, using Community Development Block Grants and other funds, and

WHEREAS, the most effective means of partnering in this matter is to join the Linn County Housing Rehabilitation Partnership (LCHRP), an existing Chapter 190 intergovernmental entity; and

WHEREAS, ORS 190.003 to 190.110 allows for units of local government to participate in intergovernmental entities formed under such statutes;

WHEREAS, pursuant to the LCHRP intergovernmental agreement, the current members of the Linn County Housing Rehabilitation Partnership (LCHRP), have invited the City to participate in the LCHRP,

NOW, THEREFORE, the City of Sweet Home ordains as follows:

Section 1 It is declared that the City Council ratifies the creation of, and declares its intent to join as a member of, the intergovernmental entity known as the Linn County Housing Rehabilitation Partnership ("LCHRP"). Exhibit "A" (attached and incorporated by reference) is a copy of the Intergovernmental Agreement ("IGA") establishing such entity and setting forth the powers, duties and functions of the intergovernmental entity. The IGA provides for the addition of new members to the partnership, but it will need to be amended to add the City of Sweet Home as a member and to make related changes before this Ordinance can take effect.

Section 2. The public purpose of the intergovernmental entity includes, but is not limited to, the following:

1. Determining housing rehabilitation policy for the participating jurisdictions;
2. Conducting a regional housing rehabilitation program;
3. Providing representation on the loan and advisory committees established by the Sub-grantee to advise the Sub-grantee on operation and management of initial loan programs and the revolving loan fund;
4. Ensuring the establishment of a revolving loan fund by a qualified non-profit organization, the Sub-grantee, for the creation of flexible future funds from loan repayments;
5. Achieving maximum flexibility in the use of the Community Development Block Grant funds as allowed by 24 CFR Part 570.489(e)(2)(ii); and
6. Providing a mechanism for municipalities within Linn County to participate in the rehabilitation and maintenance of low and moderate income housing units within their respective jurisdictions.

Section 3. As a member of the LCHRP, the City will fully participate in the LCHRP, including taking on the responsibilities set forth in Article III and Article VII of the IGA

Section 4. Pursuant to the provisions of Article III .7 of the IGA, the City agrees to contract with the Sub-grantee selected by the LCHRP Board of Directors to receive any and all CDBG housing rehabilitation grants the City applies for, and to be the administrator and program manager for such grants on behalf of the City.

Section 5. Pursuant to Article VII of the IGA, the City agrees to assign, within thirty days following the adoption of this ordinance, the following assets to the Revolving Loan Fund set up and owned by the Sub-grantee selected by the LCHRP Board of Directors: *(check all that are appropriate)*

\$ _____ of Program Income on hand, including interest as of _____, 200__.

\$ _____ of Miscellaneous (non-Program) Income on hand, including interest as of _____, 2003

\$235,337 in the City's existing outstanding loan portfolio, which represents the principal amount due for 14 loans, from CDBG Grant No. H96037.

All future program income from CDBG Grant No. _____

_____ % of the future Miscellaneous (non-Program) income from CDBG Grant No. _____

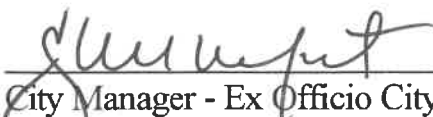
Section 6. This ordinance shall take effect when the IGA, attached hereto as Exhibit A, has been amended to provide for the addition of the City of Sweet Home as a member of the partnership.

PASSED by the Council and approved by the Mayor this 26th day of April, 2005.



Mayor

ATTEST:



City Manager - Ex Officio City Recorder

RECEIVED JAN 31 2005

AMENDED AND RESTATED
INTERGOVERNMENTAL AGREEMENT CREATING
THE LINN COUNTY HOUSING REHABILITATION PARTNERSHIP

PARTIES: This is an intergovernmental agreement under ORS 190.003 to 190.110, by and among the following signatory "units of local government," as that term is used in ORS 190.003, and such other units of local government as are admitted as parties under Article XII of this Agreement: LINN COUNTY, CITY OF LEBANON, and CITY OF SCIO, (collectively referred to in this Agreement as "the Parties"). The Parties shall automatically include all units of local government that become parties pursuant to Article XII of this Agreement.

WHEREAS, the Parties desire to partner with each other, and with other local jurisdictions which in the future may become signatory members to this Agreement, to provide low cost housing rehabilitation loans and grants to low and moderate income households within their jurisdictions using Community Development Block Grants and other available funds; and

WHEREAS, the most effective means of partnering in this matter is to create an intergovernmental entity to perform the functions desired by the Parties; and

WHEREAS, each of the Parties have ratified, by local legislation adopted pursuant to ORS 190.085, the entity referred to as the Linn County Housing Rehabilitation Partnership ("the Partnership"); and

WHEREAS, designation of a non-profit corporation meeting the requirements of Section 105(a)(15) of the federal Housing and Community Development Act to carry out the housing rehabilitation program will achieve maximum flexibility in the use of the Community Development Block Grant funds as allowed by 24 CFR Part 570.489(e)(2)(ii);

NOW, THEREFORE, the Parties agree as follows:

ARTICLE I

Establishment, Authority, and Purpose: There is established an intergovernmental organization to be known as the Linn County Housing Rehabilitation Partnership, ("the Partnership"). The Partnership shall have the authority to act on behalf of its member jurisdictions as set forth in this agreement, in matters relating to rehabilitating and maintaining low and moderate income housing units in Linn County.

1. The Board of Directors and/or its designees shall supervise and exercise day to day management of this organization. On behalf of its member jurisdictions, the Partnership shall have authority to conduct requests for proposals, develop contracts and Sub-grant agreements, select contractors and Sub-grantee, and monitor the performance of contractors and Sub-grantee. The Partnership may not enter into Sub-grant agreements or provide payment of Community Development Block Grant (CDBG) funds to any person or organization for services provided pursuant to any CDBG housing rehabilitation grant.

2. The purpose of the Partnership shall include:

- a) Determining housing rehabilitation policy,
- b) Conducting a regional housing rehabilitation program,
- c) Providing representation, not to exceed 50% of the membership, on the loan and advisory committees established by the Subgrantee, to advise the Subgrantee on operation and management of initial loan programs and the revolving loan fund.
- d) Ensuring the establishment and operation of a regional revolving loan fund by a non-profit organization meeting the requirements of Section 105(a)(15) of the federal Housing and Community Development Act
- e) Achieving maximum flexibility in the use of the Community Development Block Grant funds as allowed by 24 CFR Part 570.489(e)(2)(ii), and
- f) Providing a mechanism for municipalities within Linn County to participate in the rehabilitation and maintenance of low and moderate income housing units within their jurisdictions.

ARTICLE II

Membership in the Organization: The Partnership shall consist of Linn County, the City of Lebanon, the City of Scio, and such other local jurisdictions as may become parties to this agreement pursuant to Article XII below.

ARTICLE III

Party Responsibilities: Each party shall be responsible for:

1. Funding: Each party will transfer to Sub-selected by the Partnership, that portion of its existing CDBG loan portfolio and cash as set forth in Article VII of this agreement. These funds shall be for the purpose of initially capitalizing a revolving loan fund to be owned, administered and operated by Sub-grantee. Each party will periodically apply for new CDBG grants for housing rehabilitation and commit those funds as specified in Article VII. At the discretion of the Board, funding requirements may include establishment of an operating fund to assure timely contractor payments.
2. Compliance: Each party will comply with the terms and conditions of each CDBG housing rehabilitation grant (grant) it has applied for and received. Each party will comply with applicable state and federal laws including budget and public contracting laws.
3. Grant Expenditures: Each party will assure that all expenditures approved from grant funds it has received are for qualifying activities under that grant.
4. Contracts: Each party will enter into those contracts necessary to fulfill its grant obligations.
5. Payments to Contractors: Each party will pay Sub-grantee and any other contractors who provide services to carry out the party's responsibilities under each of its grant contracts.

6. Performance of Contractors: Each party will assure that Sub-grantee and other contractors carry out those activities required to satisfy each of its grant contracts.
7. Sub-grant Agreement: Each Party shall enter into a Sub-grant agreement with the Sub-grantee selected by the Partnership. The Sub-grantee shall be a qualified 501(c)(3) organization that meets the requirements of Section 105(a)(15) of the federal Housing and Community Development Act. Sub-grant agreements shall conform to the model agreement approved by the Board. The purpose of these agreements is to designate a Sub-grantee as the responsible entity for carrying out the housing rehabilitation program, establish and operate a Revolving Loan Fund owned by Sub-grantee, and to create in a timely manner flexible future funds from loan repayments. Sub-grant agreements shall also define the relationship between each member jurisdiction and the Sub-grantee. A sub-grant agreement shall include provisions for the administration of CDBG grants and for the operation of initial CDBG loan programs by Sub-grantee or, at Sub-grantee's discretion, by an agent of Sub-grantee. "Operation of initial CDBG loan programs" is defined as conducting the activities necessary for making the initial loans from each housing rehabilitation grant.
8. Miscellaneous (non-program) income: As used in the context of this agreement, the terms "miscellaneous income" and "non-program income" refer to the same class of funds which are not "program income. Each party that has received CDBG housing rehabilitation grants prior to becoming a member of this partnership and that elects to retain miscellaneous income, shall use that income in a manner consistent with the rules of the Oregon Economic and Community Development Department (OECD) and the federal Housing and Community Development Act.

ARTICLE IV

- A. Board of Directors Membership: The Board of Directors shall consist of one representative of each of the Parties to this Agreement, each Party to be responsible for designating its representative.
- B. Board Responsibilities: The Board of Directors shall be responsible for:
 1. Governance: Develop governance policies and procedures. Review and approve administrative policies and procedures in order to assure successful service delivery and to maximize the percent of public funds spent on service delivery. Establish annual performance goals and measures.
 2. Strategic Planning: Develop strategic plan consistent with the Partnership mission and priorities.
 3. Contracting: Review and approve contracts and agreements for grant administration, operation of loan programs, and the establishment and operation of a revolving loan fund. Select Sub-grantee and enter into contracts for other services, as they deem necessary to accomplish the purpose of the organization. Monitor performance of Sub-grantee and contractors and approve sanctions.
 4. Risk Management: Oversee the organization's response to fiscal and legal risks.
 5. Financial: Establish and approve a budget for the organization. Set policies regarding

applications for grant funds and distribution of grant funds. Assure proper management of the assets of the Partnership. Annually receive, review and approve a financial report or audit as required, prepared by a CPA and provided by the Sub-grantee, of Revolving Loan Fund activities and the use of funds described in Article VII. If required, obtain audit reports of the Partnership finances and take or recommend action.

6. Loan Committee for Initial Loan Programs: The Board or its representative(s) shall participate on the Sub-grantee's Loan Committee for the initial loan program resulting from each housing rehabilitation grant. The purpose of this Loan Committee shall include:

- a) Monitoring initial loan program activities, reviewing those loan applications that may require consideration of factors outside of the normal loan policy criteria, and approving or denying applications reviewed.
- b) Advising the Sub-grantee on matters related to operation of initial CDBG loan programs.

7. Advisory and Loan Committees for Revolving Loan Fund: The Board or its representative(s) shall participate on advisory and loan committees appointed by the Sub-grantee. The purpose of the advisory committee will be to advise the Sub-grantee on the purpose, policies, operation and management of the Revolving Loan Fund. The purpose of the Sub-grantee loan committee will include approval or denial of applications for loans and grants made from the Revolving Loan Fund.

8. Ensure equitable distribution of grant funds among member jurisdictions.

9. Other Duties: All other duties and functions necessary to further the purpose of the organization.

C. Voting Authority; Quorum

1. Voting Authority: Except for amendments to this Agreement governed by Article XI, decisions of the Board of Directors shall be made by a majority of those directors present, provided a quorum has been established. Each director shall have one (1) vote.

2. Quorum: A quorum shall consist of a majority of the Board of Directors.

D. Board Organizational Structure: The Board shall elect from its own membership a Chair and a Vice-Chair. The term of each office shall be two years. The Chair shall preside over the meetings of the Board of Directors and shall see that decisions and resolutions of the Board of Directors are carried into effect. The Vice-Chair shall act as Chair in the absence of the Chair. A director may not serve more than two consecutive terms as Chair.

E. Board Meetings: The Board shall meet periodically, and at least semiannually. All meetings are subject to the provisions of ORS Chapter 192. Minutes of all meetings shall be recorded and maintained. Robert's Revised Rules of Order shall govern meetings. The Board may also formulate additional or special rules to govern its meetings.

ARTICLE V

Support Staff: Linn County shall provide necessary support staff for the Board of Directors and the Partnership for the first year of the original Agreement. Thereafter, staff support for day to day operations shall be by contract or agreement.

ARTICLE VI

Financial Administration: The Board of Directors shall assure that the financial assets of the Partnership are properly administered. The Board may contract with qualified persons for financial services needed by the Partnership. The Board shall ensure that financial records clearly document the contributions of each party to this agreement.

ARTICLE VII

A. *Funding:* The Parties agree that:

1. Parties will continue to apply for CDBG housing rehabilitation grants to supply funding for operation of initial CDBG loan programs.
2. Parties receiving a CDBG housing rehabilitation grant applied for as a party to this agreement shall place not less than 100 percent of the grant amount (less such sums as are paid to Sub-grantee for grant administration and program management), program income, miscellaneous income and interest earned thereon into the Revolving Loan Fund established by the Sub-grantee.
3. The Sub-grantee shall be named as the beneficiary on each deed of trust created after the date of this agreement and as the result of operation of initial CDBG loan programs.
4. Parties will supply funding as soon as is practical after the date of this agreement for the initial capitalization of the Revolving Loan Fund and for other specified purposes in the manner and amounts as follows:
 - a) Linn County: The Parties acknowledge that Linn County has already made an initial contribution in an amount not less than \$755,000.00, consisting of:
 - i. the entire loan portfolio from grant contract #H95019, including all program income and all miscellaneous income, up to \$235,000.00, and interest thereon,
 - ii. miscellaneous income and interest on hand derived from grant contract #H95019 in an amount not less than \$20,000.00, and
 - iii. all proceeds from grant contract #H99006, including all program income and all miscellaneous income, up to \$400,000.00, and interest thereon; and \$100,000.00 for grant administration, management of the initial loan program, and development of the Revolving Loan Fund under grant contract #H99006, and grant closeout services for grant contract #H95019.

- b) City of Lebanon: The Parties acknowledge that the City of Lebanon has already made an initial contribution in an amount not to exceed \$390,000.00 consisting of:
 - i. all program income from grant contract #H93950, up to \$381,000, and interest thereon, and
 - ii. program income received and interest on hand derived from grant contract #H93950 in an amount not less than \$9,000.00.
- c) City of Scio: The Parties acknowledge that the City of Scio has already made an initial contribution in an amount not less than \$88,000.00 consisting of:
 - i. one half of the loan portfolio from grant contract #H87026 including miscellaneous income up to \$82,000.00, and
 - ii. miscellaneous income and interest on hand derived from grant contract #H87026 in an amount not less than \$6,000.00.

B. Use of Funds, Reports: Use of these funds by the Sub-grantee shall be described in the agreement made between each party and the Sub-grantee. Such agreement may place conditions on the use of miscellaneous income initially contributed by such party, so that such non-program income continues to benefit the residents in that party's jurisdiction. The Sub-grantee shall annually provide the Board with an program report of its use of these funds and the activities of the Revolving Loan Fund. The report shall include a summary of the current status of all open grants under management, a summary of all loans made from initial loan programs, a summary of all loans and other distributions made from the revolving loan, and a summary of account activity for each party's account including management of funds from closed grants.

ARTICLE VIII

Assets and Liabilities: Assets acquired by the Partnership through the Partnership budget shall be the joint property of the parties. The term "assets acquired by the Partnership" does not include loan portfolios, program income, miscellaneous income, or cash placed in a revolving loan fund and managed by a Sub-grantee. If the Partnership is dissolved, the assets acquired by the Partnership shall be divided based on contribution by the parties to this Agreement. Any outstanding debts, liabilities and obligations incurred by the Partnership and remaining after exhaustion of the Partnership funds available for repayment shall be shared equally among the parties.

ARTICLE IX

Insurance: The Partnership shall purchase liability insurance as needed and in the amounts equal to the limits set in the Oregon Tort Claims Act to protect its board members, employees and member agencies. Liability insurance shall be sufficient to cover multiple claims or occurrences with each occurrence covered up to the limits of the Oregon Tort Claims Act.

ARTICLE X

Review/Evaluation: This Agreement will be reviewed annually by the Board of Directors to evaluate

the efficiency of the present organizational structure. Adjustments or modifications to the roles and responsibilities described in this Agreement shall be made in writing through the amendment process in accordance with Article XI.

ARTICLE XI

Amendments: Except as set forth in Article XII, this agreement may be amended only by majority vote of each of the governing bodies of the Parties to this Agreement.

ARTICLE XII

Admission of New Parties: Additional units of local government may request or be invited to become members of the Partnership. Notwithstanding Article XI, additional units of local government may be added to the Partnership by a unanimous vote in favor of a resolution accepting the unit of government as a new party to the Partnership by the Board of Directors and by the unit of local government adopting an ordinance which ratifies the creation of the Partnership pursuant to ORS 190.085, and which commits the unit of local government to contribute to the Revolving Loan fund such portion of any loan portfolio and/or cash on hand related to a previously received or open CDBG Housing Rehabilitation grant as required by the Board of Directors. Upon adoption of the ordinance by the unit of local government and a unanimous vote by the Board of Directors in favor of a resolution accepting the unit of local government, this Amended and Restated Intergovernmental Agreement Creating the Linn County Housing Rehabilitation Partnership (Agreement) shall be considered amended to add the unit of local government as a Party to this Agreement and the Partnership in all material respects. A copy of the ordinance adopted by each new Party to the Partnership and the resolution adopted by the Board of Directors accepting the unit of government shall become an appendix to this agreement. If order of preference for new membership must be determined, it shall be by the greatest need as established in the "Distressed Area Index" published by the Oregon Economic and Community Development Department. If that index is not available, the Board of Directors shall use a method it deems equivalent.

ARTICLE XIII

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A. Termination: Any party to this agreement may withdraw on not less than ninety (90) days written and concurrent notice to the other parties to this Agreement and the Sub-grantee administering the Revolving Loan Fund. Upon termination by a party, whether voluntary or involuntary, the loan portfolios, program and miscellaneous income, cash and other assets assigned to the Sub-grantee by the terminating party, along with interest earned, shall remain the property of the Sub-grantee. Assets acquired jointly through the Partnership budget shall remain the property of the Partnership. In the event a party withdraws from the Partnership, the agreement forming the Partnership shall remain in full force and effect as to the remaining parties.

B. Involuntary Termination: A non-performing member may be involuntarily terminated upon an affirmative vote of the governing body of all the other parties to this Agreement. A party may only be involuntarily terminated after the party has been placed on written notice of non-performance (including the specific basis for or acts of non-performance and necessary remedial action) and provided that the Board has given the non-performing member at least six months to correct said non-performance.

ARTICLE XIV

Breach by Sub-grantee: In the event of a breach by the Sub-grantee of one or more of the provisions of a Sub-grantee agreement, a member jurisdiction shall be entitled to timely recovery from the Sub-grantee of any sums that may become due as a result of that breach. A member jurisdiction shall have the following remedies and responsibilities:

1. For those assets of the Revolving Loan Fund which were not originally part of the CDBG program or not subject to CDBG program rules, a member jurisdiction may require the Sub-grantee to relinquish ownership and control of such assets. Assets of this class shall revert to their prior status and shall not be considered part of the CDBG program and shall not become subject to CDBG program rules.
2. For those assets of the Revolving Loan Fund which were originally part of the CDBG program and subject to CDBG program rules, the affected member jurisdiction(s) shall require the Sub-grantee to relinquish ownership and control of such assets. Assets of this class shall revert to their prior status and shall be considered part of the CDBG program and shall be subject to CDBG program rules. The available remedies include:
 - a) Require Sub-grantee to relinquish control of such assets to the affected member jurisdiction(s), which will return all program income and interest thereon to the State.
 - b) Require Sub-grantee to relinquish control of such assets to the affected member jurisdiction(s), which will operate the housing rehabilitation program on its/their own. In this case, the returned assets would be considered program income and be subject to all CDBG program income requirements.
 - c) Require Sub-grantee to relinquish control of such assets to the affected member jurisdiction(s), which will transfer them to another eligible non-profit. Receipt of these assets by jurisdiction will not trigger program income requirements, provided that the intended use of the assets is unchanged and the city or county does not retain ownership of them.
 - d) Require Sub-grantee to relinquish control of such assets directly to another eligible Sub-grantee approved by the Board. In this case the assets continue to be defederalized and are not subject to Community Development Block Grant program income requirements.
3. Member jurisdiction(s) shall cooperate in such actions and proceed only with the approval of the Board.
4. For recovery of assets which are not immediately available or which are co-mingled, the Board shall determine the recovery method, time line, and the pro-rata share to be distributed to each member jurisdiction.

ARTICLE XV

Automatic Extension: This Agreement shall be automatically extended from year-to-year on the same terms and conditions unless it is terminated by unanimous vote of the parties.

ARTICLE XVI

Ratifying Legislation: Each party to this Agreement has adopted legislation ratifying the creation of the Partnership.

ARTICLE XVII

Effective Date of Agreement: This Restated Agreement shall become effective and will be immediately implemented upon the approval of the governing bodies of the Parties.

ARTICLE XVIII

Validity of Agreement: If any part, paragraph, article or provision of this Agreement is adjudged to be invalid by any court of competent jurisdiction, such adjudication shall not affect the validity of any remaining part, paragraph, article or provision of this Agreement. This Agreement shall be executed on behalf of each party upon written authorization from its governing body.

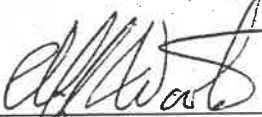
ARTICLE XIX

Counterparts: Triplicate originals of this agreement shall be signed by the parties and retained by each party's respective governing body.

THE PARTNERSHIP INTERGOVERNMENTAL AGREEMENT

SIGNATURE PAGE
Linn County

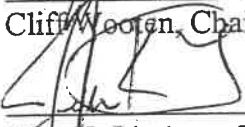
BOARD OF COUNTY COMMISSIONERS FOR
LINN COUNTY, OREGON, pursuant to Linn County Order # 2003-159 :



Cliff Wooten, Chairman

4/30/03

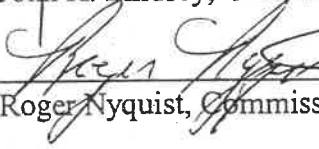
Date



John K. Lindsey, Commissioner

4/30/03

Date

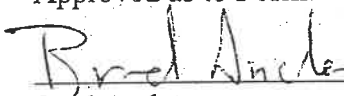


Roger Nyquist, Commissioner

4/30/03

Date

Approved as to Form:



Brad Anderson
Linn County Legal Counsel

4/22/03

Date

THE PARTNERSHIP INTERGOVERNMENTAL AGREEMENT

SIGNATURE PAGE
City of Lebanon

Kenneth I. Coombs
City Administrator or Mayor

4/23/03
Date

John E. Hite
City Recorder

4/23/03
Date

Approved as to Form:
[Signature]
City Attorney

4/23/03
Date

THE PARTNERSHIP INTERGOVERNMENTAL AGREEMENT

SIGNATURE PAGE
City of Scio



City Manager or Mayor

5/27/03


Date



City Recorder

5/27/03

Date

Approved as to Form:


City Attorney

5/29/03

Date