

**REQUEST FOR BOARD ACTION**

**HENDERSON COUNTY  
BOARD OF COMMISSIONERS**

**MEETING DATE:** April 5, 2010

**SUBJECT:** Joint Cooperation Agreement with the Asheville Regional Housing Consortium

**ATTACHMENTS:** Resolution  
Joint Cooperation Agreement

**SUMMARY OF REQUEST:**

Henderson County has been a participating member of the Asheville Regional Housing Consortium since its inception. This allows the County to receive annual planning level allocations for rehabilitation and construction of affordable housing within our County. In order to continue our designation and involvement as a participating jurisdiction and receive annual funding allocations, the Asheville Regional Housing Consortium must execute a new Joint Cooperation Agreement and submit the documentation to HUD by June 30, 2010. The attached resolution authorizes the Chairman of the Henderson County Board of Commissioners to enter into this Joint Cooperative Agreement with the Asheville Regional Housing Consortium. This agreement contains an automatic renewal clause, per HUD requirements. From this point, the Board will not need to renew this agreement every three years, but will have an opt-out option at the end of each three year period.

**BOARD ACTION REQUESTED:**

The Board is requested to approve the resolution and authorize the Chairman to enter into the Joint Cooperation Agreement with the Asheville Regional Housing Consortium.

**Suggested Motion:**

*I move that the Board adopt the attached Resolution and authorize the Chairman to enter into the Joint Cooperation Agreement with the Asheville Regional Housing Consortium.*

# HENDERSON COUNTY BOARD OF COMMISSIONERS

1 Historic Courthouse Square, Suite #1  
Hendersonville, NC 28792  
Phone (828) 697-4808 • Fax (828) 698-4443

BILL MOYER  
Chairman  
MARK WILLIAMS  
Vice-Chairman

TDD: (828) 697-4580  
[www.hendersoncountync.org](http://www.hendersoncountync.org)

CHUCK MCGRADY  
CHARLIE MESSER  
LARRY YOUNG

## RESOLUTION TO AUTHORIZE RENEW THE JOINT COOPERATION AGREEMENT WITH THE ASHEVILLE REGIONAL HOUSING CONSORTIUM

- WHEREAS,** Henderson County, North Carolina, has determined that the health and welfare of its citizens and the economic vitality of the area will benefit from increasing the availability of decent, safe, affordable housing; and
- WHEREAS,** a cooperative regional approach to providing housing avoids duplication of effort and promotes more effective delivery of services; and
- WHEREAS,** a consortium of area local governments is entitled to receive funding from the U. S. Department of Housing and Urban Development under the HOME Investment Partnerships Act that they would be unqualified to receive individually; and
- WHEREAS,** Article 20 Chapter 160A of the North Carolina General Statutes authorizes units of local government to enter into contracts or agreements with each other in order to execute any undertaking; and
- WHEREAS,** in 1993 the City of Asheville and other units of local governments in Buncombe, Henderson, Madison, and Transylvania Counties formed the Asheville Regional Housing Consortium, enabling the City of Asheville to receive and administer HOME funds on behalf of the Consortium; and
- WHEREAS,** the U.S. Department of Housing and Urban Development requires such Consortia to be formally re-designated every three years;

**NOW, THEREFORE,** be it resolved that we, the Henderson County Board of Commissioners, do hereby support the continuation of the Asheville Regional Housing Consortium and authorizes the Chairman to execute agreements with other participating units of general purpose local government in Buncombe, Transylvania and Madison Counties to continue this Consortium. The Chairman is further authorized to sign all contracts approved by the City Attorney with other Governmental Agencies as may be required to carry out activities of the Cooperation Agreement.

Adopted this the 5<sup>th</sup> day of April, 2010

---

WILLIAM L. MOYER, CHAIRMAN  
HENDERSON COUNTY BOARD OF COMMISSIONERS

ATTEST:

---

TERESA L. WILSON, CLERK TO THE BOARD

**ASHEVILLE REGIONAL HOUSING CONSORTIUM  
JOINT COOPERATION AGREEMENT**

**THIS AGREEMENT**, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by and between geographically contiguous units of general local government as shown on the signature pages attached hereto which may include Buncombe, Henderson, Madison and Transylvania Counties, and governmental units located within said counties, (herein called "Cooperating Units") and City of Asheville (herein called "Lead Entity"), all of which are general local governmental units of the State of North Carolina, and this agreement is made pursuant Chapter 160A, Article 20 of the North Carolina General Statutes.

**WITNESSETH THAT:**

**WHEREAS**, the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended (herein called the "Act") makes provisions whereby units of general local government may enter into cooperation agreements and form a Consortium to undertake or assist in undertaking affordable housing pursuant to the HOME Investment Partnerships Program (Home Program); and

**WHEREAS**, it is the desire of the parties that the Lead Entity continue to act in a representative capacity for the Cooperating Units as well as itself. The Cooperating Units desire that the Lead Entity assume overall responsibility for ensuring that the Consortium established below, is carried out in compliance with the requirements of the Act, state and federal regulations program requirements and the Consolidated Plan for the Consortium.

**NOW, THEREFORE**, the parties hereto do mutually agree as follows:

1. To continue the Asheville Regional Housing Consortium (the Consortium) established in 1992 as a joint agency, pursuant to N.C. General Statute 160A-462, for the purposes of cooperatively providing safe, affordable and standard housing, promoting economic development and alleviating housing problems in the counties of Buncombe, Madison, Henderson and Transylvania and the participating municipalities located in those counties.

2. The Asheville Regional Housing Consortium Board of Directors (the Board) will continue to provide policy direction for the operations of the Consortium. The Board will meet at least quarterly or as often as considered necessary by the Lead Entity or by a majority of the members of the Consortium. The membership of the Board shall be comprised of one member from each Cooperating Unit, except that Cooperating Units with population over 35,000 shall have two members. For the purposes of this section, the County population shall consist of residents of unincorporated areas. The Board shall provide an Annual Report summarizing the status and accomplishments of the consortium to the Governing Body of each member. The Board shall establish policy and administrative arrangements to carry out the functions of the Consortium including, but not limited to, approving proposals for funding submitted by the Consortium, distributing funds awarded to the Consortium and recommending contracts for carrying out the functions of the Consortium. With respect to the financial and legal obligations undertaken by the Lead Entity with HUD, no action shall be taken by the Consortium without the concurrence of the Lead Entity. The Consortium is designated as a participating jurisdiction under the HOME Program, and Cooperating Units shall continue to appoint members to serve on the Board. In the event the Board consists of more than 9 representatives, an executive committee will continue consisting of 5 members representing one each from the four County Governments and one from the Lead Entity. The Lead Entity shall designate one of its representatives to serve as Chairman of the Board and the Executive Committee.

3. The Lead Entity and each Cooperating Unit shall be responsible for providing matching funds required by federal regulations for any funds allocated for that jurisdiction. No Cooperating Unit shall refuse to provide matching funds required by its projects for the period of time that the participation of that Cooperating Unit is required in the Consortium by HUD regulations and this Agreement. Each Cooperating Unit shall reimburse the Lead Entity immediately and in full for any and all expenses incurred by the Lead Entity as a result of the failure of any Cooperating Unit to provide the matching funds. Matching funds will not be required when the Cooperating Unit does not have a project within its jurisdiction.

4. The Cooperating Units hereby authorize the Lead Entity to submit, request and receive HOME funding from the United States Department of Housing and Urban Development on behalf of the Consortium and to otherwise act on behalf of the Consortium as authorized by the Board.

5. The Cooperating Units hereby authorize the Lead Entity to establish and maintain a local HOME Investment Trust Fund for receipt of HOME funds and repayments as required by 24 CFR Part 92.500.

6. The Lead Entity and Cooperating Units shall cooperate in the implementation of the HOME Program and shall cooperate in the preparation of the Consolidated Plan by providing to the Lead Entity that information needed.

7. The Lead Entity and Cooperating Units shall be entitled to a pro rata portion of the HOME Program funding for eligible uses under the Act and each shall be responsible for meeting their pro rata portion of the matching fund requirements. If no amounts are established by the Federal government for the Lead Entity and Cooperating Units in the Consortium, funds for the Lead Entity and Cooperating Units shall be allocated by the Board.

8. The Consortium agrees that at least 15% of all HOME Program funds received will be subcontracted for projects administered by Community Housing Development Organizations (CHDOs) as defined in the Act which have 501(c) tax status as required by federal law.

9. The Board shall have the right to reallocate HOME Program funding to the Consortium to be used by other Consortium members when a Cooperating Unit is unable to use the funding due to lack of eligible projects or matching resources. A schedule for reallocation shall be determined by the Board to allow HOME Program funding to be used by the Consortium before reallocation by the U.S. Department of Housing and Urban Development to jurisdictions outside the Consortium. The reallocation of funds that are unable to be used shall be consistent with the Consortium's adopted Consolidated Plan.

10. With reference to any program income and repayments generated from the HOME funds, federal regulations shall govern placement of program income generated from HOME funds and repayments into the local trust fund. The Lead Entity shall, if requested and to the extent possible, separately account for program income and repayments on each Cooperating Unit's projects. Program Income and repayments on projects shall only be available to the Cooperating Unit for use on activities that are consistent with the Act and the approved Consolidated Plan.

11. The Cooperating Units and Lead Entity shall affirmatively further fair housing.

12. The Lead Entity and Cooperating Units, as parties to the Consortium, shall direct all activities, with respect to the Consortium, to the alleviation of housing problems in the State of North Carolina.

13. The Cooperating Units and Lead Entity agree that each will save the other harmless due to the negligent acts of its employees, officers or agents, including volunteers, or due to any negligent operation of equipment. This section shall not be construed as waiving any defense or limitation which either party may have against any claim or cause of action by any person not a party to this agreement. The Cooperating Units shall not be held harmless for liability that may result from failure to provide proper accounting or otherwise comply with State and Federal regulations. Each Cooperating Unit shall immediately reimburse the Lead Entity in full for any and all expense for which the Lead Entity shall become responsible in its role as Lead Entity. To the extent that such expense is incurred by the acts or omissions of a single Cooperating Unit, that Cooperating Unit shall make such reimbursement in full. To the extent that such expense is incurred by acts or omissions of two or more Cooperating Units, said reimbursement shall be shared proportionately by those Cooperating Units.

14. The Lead Entity and the Cooperating Units agree to remain in the Consortium at least through September 30, 2013. Thereafter, each party shall continue to participate in the Consortium to the extent required by HUD regulations or other applicable law. The obligations of each of the parties as set forth herein and as required by HUD regulations and other applicable law shall remain effective for the duration of any responsibility of the Consortium or Lead Entity to HUD. The Lead Entity and cooperating units agree not to withdraw from the Agreement prior to September 30, 2013.

15. Should disputes arise between any participants in the Consortium resulting in legal action, such actions shall be filed in the appropriate courts of Buncombe County. All parties hereto located in Counties outside Buncombe County specifically waive any alternate venue.

16. The program year start date for the Consortium shall be July 1, 2010. The Lead Entity and cooperating units agree to have the same program year for CDBG, HOME, ESG and HOPWA.

17. Renewal. Unless otherwise terminated by agreement in writing of all parties hereto or by termination of the HOME program by HUD, this agreement shall automatically be renewed for successive three-year qualification periods under the same terms and conditions. The parties agree that the Lead Entity (The City of Asheville) will notify each consortium member in the Right Not to Participate Notice if there are any amendments that will be required to the Agreement. These changes would include, but not be limited to, changes to the management process, voting, distribution of funds, or other administrative matters. Any Participating Unit shall have the right to withdraw from the consortium at the beginning of any renewal period by giving notice in writing to the City of Asheville. For each renewal period, the City of Asheville shall, by the date specified in HUD's consortia designation notices, notify each of the Participating Units in writing of its right not to participate for that renewal period and shall provide copies of all such notifications to HUD.

**IN WITNESS WHEREOF**, the lead entity and the Cooperating Units have caused this Agreement to be executed by a duly authorized officer of each party.

**Attest to:**

**Henderson County**

\_\_\_\_\_  
Clerk to the Board  
(Corporate Seal)

By: \_\_\_\_\_  
Chairman

\*\*\*\*\*

STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON

I, Notary Public of the County and State aforesaid certify that Teresa Wilson, personally came before me this day and acknowledged that she is the Clerk of the Henderson County Board of Commissioners, a body politic and corporate, and that by authority duly given and as the act of the corporation the foregoing instrument was signed in its name by its Chairman and attested by herself as its Clerk to the Board.

Witness my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

Certification that each party does hereby state that this joint Cooperation Agreement is fully authorized and is in accordance with State and local law and provides full legal authority for the member to undertake or to assist in undertaking housing assistance activities under the HOME Investment Partnership program authorized under the National Affordable Housing Act of 1990, as amended.

\_\_\_\_\_  
County Attorney  
County of Henderson