

ATTACHMENT A

A RESOLUTION AUTHORIZING THE EXECUTION OF A HOME INVESTMENT PARTNERSHIP PROGRAM CONSORTIUM AGREEMENT Resolution No. 138/2004-05

WHEREAS, in 1992, the Carrboro Board of Aldermen approved participation of the Town in the Orange County HOME Consortium; and

WHEREAS, the Towns of Carrboro, Chapel Hill, and Hillsborough and Orange County are currently members of the Orange County HOME Consortium established on or about August 3, 1992; and

WHEREAS, the current Orange County HOME Consortium Agreement expires on June 30, 2005; and

WHEREAS, the Orange County HOME Consortium desires to continue to be considered for eligibility under the federal HOME Program operated by the U.S. Department of Housing and Urban Development as authorized under the National Affordable Housing Act, as amended.

NOW THEREFORE BE IT RESOLVED, that the Carrboro Board of Aldermen authorizes the Town Manager to execute the approved HOME Consortium Agreement for the period July 1, 2005 to June 30, 2008, and future agreements for future periods not materially different from the July 1, 2005 to June 30, 2008 agreement, subject to approval as to form by the Town Attorney.

NORTH CAROLINA
ORANGE COUNTY

**Orange County HOME Consortium
HOME Investment Partnership Program Consortium Agreement**

THIS AGREEMENT made and entered into by and among the County of Orange (hereinafter "County"), the Town of Carrboro, the Town of Chapel Hill, and the Town of Hillsborough (hereinafter "Towns"), each being a general local governmental unit of the State of North Carolina, and is made pursuant to North Carolina Statutes, Article 20 of Chapter 160A.

WHEREAS, County and Towns agree that it is desirable and in the interests of their citizens to secure approval by the federal government to be considered as a consortium under the federal HOME Program operated by the U.S. Department of Housing and Urban Development as authorized under the HOME Investment Partnership Act, Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended;

NOW, THEREFORE, the County and the Towns agree as follows:

Section 1. Definitions

The definitions contained in 24 CFR Part 92, Subpart A, paragraph 92.2 are incorporated herein by reference and made a part hereof, and the terms defined in this section have the following meanings given them:

- A. "Act" means Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended (42 U.S.C. 12701 et. seq.).
- B. "Consolidated Plan" means the Consolidated Plan for Housing and Community Development Programs as established in the Act and prepared and adopted by the County and Towns, as amended from time to time. The Plan describes the needs, resources, priorities and proposed activities to be undertaken with respect to HUD Programs, including the HOME Program.
- C. "Federal HOME Program" means a procedure established for the use of funds made available from HUD through the Act to carry out multi-year housing strategies through assistance to first-time homebuyers and existing homeowners, property acquisition, rehabilitation and new construction of housing, site improvements, tenant-based rental assistance, demolition, relocation expenses and other reasonable and necessary expenses related to the development of affordable housing.
- D. "HUD" means the United States Department of Housing and Urban Development.
- E. "Regulations" means 24 CFR Part 92 HOME Investment Partnerships Program Implementing Regulations as issued by HUD.
- F. "Federal HUD Consortium" means a consortium of units of general local governments bound by the terms of a HOME Investment Partnership Act Consortium Agreement for the purpose of participating in the Federal HOME Program and receiving funds as authorized in the Federal Program Regulations.

- G. "Federal Program Requirements" means documents issued by the U.S. Department of Housing and Urban Development describing the regulations and requirements of the HOME Program in order for funds to be awarded to participating jurisdictions as authorized in the Act.

Section II. Purpose

This Agreement is to form a Consortium of units of general local government within Orange County for designation as a Federal HUD Consortium under the Act and the Federal Program Requirements of the Act. The said Consortium is known and hereinafter may be referred to as the Orange County HOME Consortium (hereinafter "OHC").

Section III. Agreement.

- A. The term of this Agreement begins with the effective date of July 1, 2005 and ends June 30, 2008. Subject to the requirements of Paragraph D of this Section, the County and Towns agree that the terms of this Agreement cover the period necessary to carry out all activities that will be funded from funds awarded during three federal fiscal years (2006, 2007, 2008) and that all members of OHC will remain in OHC for the entire period. The Agreement remains in effect until the HOME funds from each of the federal fiscal years of the qualification period are closed out pursuant to 24 CFR 92.507.
- B. The OHC Program Review Committee is authorized to provide policy oversight for planning, operations, and evaluation of OHC and the HOME Program. The Manager or his/her designee from each participating unit of local government and one (1) elected official from each jurisdiction shall be a member. The OHC Program Review Committee shall prepare a proposed HOME program design each year and consortium program application to HUD, in compliance with the Act, the Regulations, and the Federal Program Requirements, including reallocation of any funds from previous years not expended or any repayments or other program income consistent with this Section. Each year's proposed HOME program design and the consortium program application should be consistent with the Consolidated Plan. Each year's program design shall be subject to the approval of each consortium member's elected board. The proposed HOME program design will define a strategy in sufficient detail to accommodate the collective and individual needs and priorities of the County and Towns.

The OHC Program Review Committee shall also review the Consolidated Plan Update each year and any amendments needed, and present these changes and amendments to each consortium member's elected board for approval and submission to HUD and to the State.

All consortium members must approve the HOME program design and any Consolidated Plan amendments prior to their submission to HUD.

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- C. The County and Towns mutually agree that the County shall act as the Lead Entity in a representative capacity for all members of OHC for the purposes of the Act and as further defined in the Federal Program Requirements for funding provided directly by HUD. The County, in its capacity as lead entity, is authorized to enter into an agreement with HUD. The Chair of the Orange County Board of Commissioners, chief elected official of the Lead Entity, acting on behalf of OHC, is authorized to submit an application for funding under the federal HOME Program, consistent with the approved HOME program design for each year. The County, as Lead Entity, is authorized to enter into agreements with non-profit organizations receiving funding under an approved HOME program design.
- D. The County and Towns mutually agree that the County as Lead Entity shall assume overall responsibility for ensuring that the OHC HOME program meets the requirements concerning the Consolidated Plan in accordance with HUD regulations in 24 CFR Parts 92 and 91, respectively, and the requirements of 24 CFR 92.350(a)(5); and further, ensuring that the OHC HOME program is carried out in compliance with the requirements of the Act, the Regulations and the Federal Program Requirements. The Towns agree to assist the County in maintaining compliance with the Act, the Regulations, and the State and Federal Program Requirements for the full compliance period, extending to and continuing beyond the expiration of this Agreement.
- E. If any new entities join OHC, the County as Lead Entity agrees to notify HUD in writing and to provide a copy of the authorizing resolution from the new members' governing body and an amendment to this Agreement signed by the chief executive officer of the new member. The County, as Lead Entity, is authorized by this agreement to amend this Agreement on behalf of the entire consortium to add new members to OHC.
- F. The County and the Towns mutually agree that the OHC's HOME program will provide fair and ample opportunity for all members of the consortium to access the funding brought to it in an amount that shall be determined by the State, and that the County and Towns shall be given ample opportunity to comment on and approve the distribution of all funding made available through the OHC.
- G. The County as Lead Entity will finance the costs of administering the HOME Program for OHC to the extent of appropriations. The County shall establish the HOME Investment Trust Fund as specified in 24 CFR Part 92.500, and will participate in the ~~Integrate~~Integrated Disbursement and Information System and other accounting and compliance procedures as required by HUD.
- H. If local matching funds are required by HUD, the County and Towns mutually agree that the matching funds shall be provided in accordance with the following formula:
1. Orange County -- 40%
 2. Town of Carrboro -- 14%
 3. Town of Chapel Hill -- 41%
 4. Town of Hillsborough -- 5%

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- I. HOME funds invested in affordable housing shall be repaid if the housing does not meet the affordability requirements of Section 92.252 and Section 92.254 of the Regulations or if the housing ceases to qualify as affordable housing before the period of affordability expires. If HUD, in accordance with Section 92.503 of the Regulations, requires OHC to repay HOME funds awarded, the County and Towns agree that the payments will be made in accordance with the formula specified in Paragraph H of this Section.
- J. Any repayment of HOME funds, loans or other program income generated from funds received through the HOME Program, shall be returned to the HOME Investment Trust Fund established by the Lead Entity and reallocated by the OHC Program Council during the next HOME program design process following receipt of the repayments or other program income, to the extent allowed by the Regulations and Federal Program Requirements.
- K. The County and Towns agree to comply with all Regulations, Federal Program Requirements, and OHC HOME program design features and requirements.
- L. This Agreement shall be executed by the appropriate officers of the County and Towns pursuant to authority granted them by their governing bodies.
- M. To the maximum extent permitted by law, each Town which is a party to this Agreement shall indemnify and hold harmless the County and other Towns, and their officers, officials, and employees, from and against any and all costs, damages, liabilities, claims, losses, judgments or expenses, including reasonable attorneys fees, arising in any manner from or as a result of any activities by or on behalf of the Towns under this Agreement other than as provided for in Paragraph I of this Section, provided, however, that nothing in this paragraph indemnifies and holds harmless the County and other Towns from and against any costs, damages, liabilities, claims, losses, judgments or expenses, including reasonable attorneys fees, arising in any manner from or as a result of negligent acts or omissions of the County, and other Towns or their officers, officials, and employees. Likewise, the County shall indemnify and hold harmless the Towns, and the Towns' officers, officials, and employees, from and against any and all costs, damages, liabilities, claims, losses, judgments or expenses, including reasonable attorneys fees, arising in any manner from or as a result of any activities by or on behalf of the County under this Agreement other than as provided for in Paragraph I of this Section, provided, however, that nothing in this paragraph indemnifies and holds harmless the Towns from and against any costs, damages, liabilities, claims, losses, judgments or expenses, including reasonable attorneys fees, arising in any manner from or as a result of negligent acts or omissions of the Towns, or the Town's officers, officials, and employees.
- N. The County and Towns certify that they will adhere to all federal and state regulations pertaining to the disposition of real property, if any real property is acquired by the County or Towns with funds authorized under the Federal HOME Program Requirements.

- O. This Agreement shall be construed in accordance with and governed by federal law and by the laws of the State of North Carolina not inconsistent with federal law. Any litigation arising out of this Agreement shall be brought in courts sitting in North Carolina, with venue in Orange County.
- P. This Agreement shall be amended by mutual agreement of all parties in writing.
- Q. OHC and the parties to this agreement are bound by the terms of this Agreement for the purpose of participating in the Federal HOME Program and agree to cooperate to undertake or to assist in undertaking housing assistance activities for the Federal HOME Program, and agree to receive funds as authorized in the Federal Program Regulations. In the event OHC qualifies as a Federal HUD Consortium, the parties of this agreement will consider any additional amendments to the Agreement necessary to apply for funds under the Federal Program Requirements.
- R. The County and Towns agree to cooperate in the implementation of the Federal and State Programs and to cooperate in the preparation of the Consolidated Plan in accordance with HUD regulations in 24 CFR Parts 92 and 91, respectively, and the requirements of 24 CFR 92.350 (a)(5). The County and Towns shall execute and submit the required certifications, and shall prepare and submit its plan for monitoring compliance with the Consolidated Plan.
- S. In accordance with the Act and the Regulations, each member of the Orange County HOME Consortium composed of the County of Orange, the Town of Carrboro, the Town of Chapel Hill, and the Town of Hillsborough, certifies that it will direct its activities to the alleviation of housing problems within Orange County, that it will affirmatively market HOME-assisted housing as defined in Section 92.351 of the Regulations and will affirmatively further fair housing in accordance with applicable federal and State laws.

Section IV. Execution

- A. The County and Towns have signed this Agreement, and all governing boards have duly approved this Agreement and pursuant to such approval and the proper officials having signed this Agreement, the parties hereto agree to be bound by the provisions herein set forth. The terms and provisions of this Agreement are authorized by applicable laws and regulations.

The County and the Towns have authorized this Agreement to be duly executed under seal and have set their hands and seals on the day and year specified below.

TOWN OF CARRBORO

Steven Stewart
Town Manager

ATTEST:

**NORTH CAROLINA
ORANGE COUNTY**

This is to certify that on this day personally came before me _____, with whom I am personally acquainted, and being by me duly sworn, says that Steven Stewart is the Town Manager, and that she the said _____, is the Town Clerk of the Town of Carrboro, the municipal corporation named within and which executed the foregoing instrument; that she knows the common seal of said corporation; that the seal affixed to said instrument is said common seal; that the name of corporation was subscribed thereto by the said Town Manager and that the said Town Manager and said _____ Town Clerk subscribed their names hereto and said common seal was affixed, all by order of the Board of Alderman of the Town of Carrboro and that said instrument is the act and deed of said corporation.

Witness my hand and notarial seal, this the _____ day of _____, 20____.

Notary Public

My Commission expires: _____

TOWN OF CHAPEL HILL

W. Calvin Horton
Town Manager

ATTEST:

NORTH CAROLINA
ORANGE COUNTY

This is to certify that on this day personally came before me _____, with whom I am personally acquainted, and being by me duly sworn, says that W. Calvin Horton is the Town Manager, and that he the said _____, is the Town Clerk of the Town of Chapel Hill, the municipal corporation named within and which executed the foregoing instrument; that she knows the common seal of said corporation; that the seal affixed to said instrument is said common seal; that the name of corporation was subscribed thereto by the said Town Manager and that the said Town Manager and said _____ Town Clerk subscribed their names hereto and said common seal was affixed, all by order of the Town Council of the Town of Chapel Hill and that said instrument is the act and deed of said corporation.

Witness my hand and notarial seal, this the _____ day of _____, 20____.

Notary Public

My Commission expires: _____

TOWN OF HILLSBOROUGH

Eric Peterson
Town Manager

ATTEST:

NORTH CAROLINA
ORANGE COUNTY

This is to certify that on this day personally came before me _____, with whom I am personally acquainted, and being by me duly sworn, says that Eric Peterson is the Town Manager, and that she the said _____, is the Town Clerk of the Town of Hillsborough, the municipal corporation named within and which executed the foregoing instrument; that she knows the common seal of said corporation; that the seal affixed to said instrument is said common seal; that the name of corporation was subscribed thereto by the said Town Manager and that the said Town Manager and said _____ Town Clerk subscribed their names hereto and said common seal was affixed, all by order of the Town Board of the Town of Hillsborough and that said instrument is the act and deed of said corporation.

Witness my hand and notarial seal, this the _____ day of _____, 20____.

Notary Public

My Commission expires: _____

ORANGE COUNTY

John M. Link, Jr.
County Manager

ATTEST:

NORTH CAROLINA
ORANGE COUNTY

This is to certify that on this day personally came before Donna Baker, with whom I am personally acquainted, and being by me duly sworn, says that John M. Link, Jr. is the County Manager, and that she the said Donna Baker, is the Clerk to the Board of Commissioners of the County of Orange, the body politic and corporate named within and which executed the foregoing instrument; that she knows the common seal of said County; that the seal affixed to said instrument is said common seal; that the name of corporation was subscribed thereto by the said County Manager and that the said County Manager and said Donna Baker subscribed their names hereto and said common seal was affixed, all by order of the Board of County Commissioners of Orange County and that said instrument is the act and deed of Orange County.

Witness my hand and notarial seal, this the ____ day of _____, 20____.

Notary Public

My Commission expires: _____