

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

Meeting Date: March 18, 2009

Subject: CDBG Small Business and Entrepreneurial Assistance, Funding Approval, Resolutions, Policies, and related Grant Acceptance for Warm Company Project.

Attachments:

1. Resolution to Adopt Citizen Participation Plan
2. Citizen Participation Plan
3. Plan for Local Economic Benefit to Low Income Persons
4. Anti-displacement Certification
5. Resolution to Adopt Fair Housing Plan, Section 504 Plan, Section 3 Plan, & EEO Policy
6. Fair Housing Plan
7. Equal Employment and Procurement Plan
8. Impediments to Fair Housing Report Resolution
9. Resolution Accepting the CDBG Grant# 08-C-1848
10. Resolution – Optional Coverage Relocation Plan
11. Funding Approval Form
12. Grant Agreement
13. Performance Based Contract

SUMMARY OF REQUEST:

Planning Staff and the Partnership for Economic Development proposes the acceptance of grant award for a Small Business & Entrepreneurial Assistance (SBEA) grant from the N.C. Division of Community Assistance in the amount of \$200,000.00. The Warm Company located on Sunset Hill Road will expand their facility resulting in new jobs. The SBEA program will assist in bringing needed wastewater infrastructure to the site to allow the expansion to occur. The full grant acceptance, funding condition documents and related policies and documents is available in the Planning Department for public review. Future steps with the project involve design of the sewer line extension and bidding for construction which will require Board approval.

No County funds are required. The project is 100% CDBG funded.

BOARD ACTION REQUESTED:

Planning Staff and the Partnership for Economic Development request approval of the attached resolutions, policies and documents.

Suggested Motion: I move that the Board approve the acceptance of the \$200,000 Division of Community Assistance Small Business & Entrepreneurial Assistance grant for the Warm Company Project on Sunset Hill Road and that the Board approve all attached documents. I further move that the Board authorize the Chairman and Planning Director to sign and submit required documents for proper grant administration.

RESOLUTION

HENDERSON COUNTY
2008 SMALL BUSINESS AND ENTREPRENEURIAL ASSISTANCE GRANT PROGRAMS

RESOLUTION TO ADOPT THE HENDERSON COUNTY
CITIZEN PARTICIPATION PLAN FOR COMMUNITY
DEVELOPMENT BLOCK GRANT PROGRAM GRANT #08-C-1848

WHEREAS, Henderson County is participating in the Community Development Block Grant Program under the Housing and Community Development Act of 1974, as amended, administered by the North Carolina Department of Commerce; and

WHEREAS, Henderson County has been allocated funds under Title I of the Housing and Community Development Act of 1974; and

WHEREAS, Henderson County wishes to provide citizens with an adequate opportunity for meaningful involvement on a continuing basis and for participation in the planning implementation, and assessment of CDBG programs; and

WHEREAS, Henderson County wishes to adopt the Citizen Participation Plan for the 2008 Small Business and Entrepreneurial Assistance Grant #08-C-1848.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF HENDERSON COUNTY, NORTH CAROLINA THAT:

Section 1. The Board of Commissioners of Henderson County, North Carolina hereby adopts the attached Citizen Participation Plan.

Section 2. This Resolution shall become effective upon its adoption and approval.

Adopted and Approved this the 18th day of March 2009.

William Moyer, Chairman

ATTEST:

County Clerk to the Board

**HENDERSON COUNTY CITIZEN PARTICIPATION PLAN FOR
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAMS (08-C-1848)**

Henderson County will provide citizens with an adequate opportunity for meaningful involvement on a continuing basis and for participation in the planning implementation, and assessment of CDBG programs. The procedures for ensuring this are outlined below.

- (1) Citizen participation in the application process. The County shall:
 - (A) Solicit and respond in a timely manner to views and proposals of citizens, particularly low-and moderate-income persons, members of minority groups, and residents of blighted areas where activities are proposed. The County shall respond in writing to written citizens comments. Responses shall be made within ten calendar days of receipt of the citizen comment.
 - (B) Provide technical assistance to facilitate citizen participation, where requested. The technical assistance shall be provided to groups representative of persons of low-and moderate-income that request such assistance in developing proposals. The level and type shall be determined by the County.
 - (C) Provide adequate notices of public hearings in timely manner to all citizens and in such a way as to make them understandable to non-English speaking persons. Hearings will be held at times and locations convenient to potential or actual beneficiaries and with accommodations for the handicapped. A notice of the public hearing shall be published at least once in the non-legal section of a newspaper having general circulation in the area. The notice shall be published not less than ten days nor more than 25 days before the date fixed for the hearing. The notice of public hearing to obtain citizens' views after the application has been prepared, but prior to the submission of the application to the Division of Community Assistance (DCA) shall contain a description of the proposed project(s) including the proposed project location, activities to be carried out, and the total costs of activities.
 - (D) Schedule hearings to obtain citizens' views and to respond to citizen proposals at times and locations that permit broad participation, particularly by low-and moderate-income persons, members of minority groups, handicapped persons, and residents of blighted neighborhoods and project areas.
 - (E) Conduct one public hearing during the planning process to allow citizens the opportunity to express views and proposals prior to formulation of the application.
 - (F) Conduct one public hearing after the application has been prepared but prior to submission of the application to DCA.
- (2) Submitting objections to the Division of Community Assistance (DCA).
 - (A) Persons wishing to object to the approval of an application by Henderson County shall submit to DCA their objections in writing. DCA will consider objections made only on the following grounds.

- (i) The applicant's description of the needs and objectives is plainly inconsistent with available facts and data.
 - (ii) The activities to be undertaken are plainly inappropriate to meeting the needs and objectives identified by the applicant, and
 - (iii) The application does not comply with the requirements of DCA or other applicable laws.
 - (B) All objections shall include an identification of the requirements not met. In the case of objections made on the grounds that the description of needs and objectives is plainly inconsistent with significant, generally available facts and data, the objection shall include the facts and data upon which the objection is based.
 - (C) The address of the Division of Community Assistance is attached to this plan.
- (3) Submitting objections to the County.
- (A) Persons wishing to object directly to the County please refer to the complaint procedures established by Henderson County that is attached.
- (4) Citizen participation is provided for in the program amendment process, if the County proposes an amendment that would require prior NC Department of Commerce, Division of Community Assistance (DCA) approval. The County will:
- (A) Will conduct one public hearing prior to the submission of the amendment to DCA in the same manner as in Part (1), (A),(B),(C),(D), of this plan.
 - (B) Will respond to citizen's objections and comments in the same manner as in (2) (A),(B),(C) and (3) (A).
- (5) Submitting Objections to the Division of Community Assistance (DCA).
- (A) Persons wishing to object to the approval of an amendment by DCA shall make such objection in writing. DCA will consider objections made only on the following grounds:
 - (i) The recipient's description of needs and objectives is plainly inconsistent with available facts and data.
 - (ii) The activities to be undertaken are plainly inappropriate to meeting the needs and objectives identified by the recipient, and
 - (iii) The amendment does not comply with the requirements of applicable laws and regulations.
 - (B) All objections shall include an identification of the requirements not met. In the case of objections made on the grounds that the description of needs and objectives is plainly inconsistent with significant, generally available facts and data, the objection shall include the facts and data upon which the objection is based.

- (6) Citizen participation in the program closeout process.
 - (A) Recipients shall conduct one public hearing to assess program performance during the grant closeout process and prior to the actual closeout of the grant in the same manner as in Part (1)(A)(B)(C) of this plan.
 - (B) Recipients shall continue to solicit and respond to citizen comment in the same manner as in Part (2),(A),(B),(C) and (3)(A). of this plan until such time as the grant program is closed.
- (7) Persons may submit written comments to DCA at any time concerning the applicant's or recipient's failure to comply with the requirements contained in this plan.
 - (i) All records of public hearings, citizens' comments, responses to comments and other relevant documents and papers shall be kept in accordance with Rule .0911 the program regulations. All program records shall be accessible to citizens in accordance with Rule .0911(b) of the program regulations.

Complaint Procedure:

Any individual may choose to file a complaint concerning the CDBG Grant Program. Complaints should be forwarded to: Director of Planning, 213 1st Avenue East Hendersonville, NC 28792. The complaint should contain the following information:

- a. The name and signature of the complainant.
- b. The address to which the County's response should be mailed.
- c. A telephone number where the complainant, or an individual knowledgeable about the substance of the complaint, can be reached during daytime hours.
- d. The nature of the complaint, including any relevant information or documentation.
- e. A recommendation concerning how the complainant wishes to have the matter resolved.

Note: In the case of a handicapped person who is unable to prepare a written response, a phone call to the office (828) 697-4819 will be sufficient for such persons to initiate the complaint process. The County will make every reasonable effort to provide a written response to a complainant within fifteen (15) days of its receipt or, if the complaint is about work presently occurring at a property, an "action" response within two (2) days of receipt of notice, followed up by a written response will occur. The County will indicate its position on the matter and the action it proposes to take. The County will not be obligated, however, to respond to any anonymous or fictitious complaints.

Adopted this 18th day of March 2009.

William Moyer, Chairman

ATTEST:

(Clerk to the Board)

**LOCAL ECONOMIC BENEFIT FOR LOW-AND VERY LOW
INCOME PERSONS PLAN
CDBG PROGRAM**

To ensure that to the greatest extent possible contracts for work are awarded to business concerns located or owned in substantial part by persons residing in the Section 3 covered area, as required by Section 3 of the Housing and Urban Development Act of 1968, Henderson County has developed and hereby adopts the following plan:

1. This Section 3 plan shall apply to services needed in connection with the grant including but not limited to businesses in the fields of planning, consulting, design, building construction/renovation, maintenance and repair, etc.
2. This Section 3 covered project area for the purpose of this grant program shall include Henderson County, and portions of immediately adjacent counties.
3. When in need of a service, the County will identify suppliers, contractors or subcontractors located in the Section 3 area. Resources for this identification shall include the Minority Business Directory published through the State Department of Commerce, local directories and Small Business Administration local offices. Word of mouth recommendation shall also be used as a source.
4. The County will include this Section 3 clause in all contracts executed under this CDBG Program. Where deemed necessary, listings from any agency noted in No. 3 above shall be included as well as sources of subcontracts and suppliers.
5. The prime contractor selected for major public works facility or public construction work will be required to submit a Section 3 Plan which will outline his/her work needs in connection with the project. Should a need exist to hire any additional personnel, the Henderson County Employment Security Commission shall be notified and referred to the contractor.
6. Each contract for housing rehabilitation under the program, as applicable, for jobs having contracts in excess of \$100,000 shall be required to submit a Section 3 Plan. This Plan will be maintained on file in the grant office and shall be updated from time-to-time or as the grant staff may deem necessary.
7. Early in our project, prior to any contracting, major purchases or hiring, we will develop a listing of jobs, supplies and contracts likely to be utilized during the project. We will then advertise in our local newspaper an ad prominently located as a display ad the pertinent information regarding the project including all Section 3 required information.

Date Adopted

William Moyer, Chairman

Residential Anti-Displacement and
Relocation Assistance Certification

I hereby certify that the Henderson County has adopted and is following a written Residential Anti-Displacement and Relocation Assistance Plan that conforms with the requirements of Section 104(d) of the Housing and Community Development Act of 1974, as amended.

William Moyer, Chairman
Name and Title of Certifying Official

Signature of Certifying Official

March 18, 2009
Date

RESOLUTION

RESOLUTION TO ADOPT SECTION 504 PLAN, UPDATE TO FAIR HOUSING PLAN, SECTION 3 PLAN AND EEO POLICY FOR HENDERSON COUNTY

WHEREAS, Henderson County has received funding through the State of North Carolina's Community Development Block Grant Program, and;

WHEREAS, Henderson County has agreed, by acceptance of the CDBG funds, (CDBG No. 08-C-1848), to abide by the various regulations governing the administration of the Community Development Block Grant Program;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY BOARD OF COMMISSIONERS OF HENDERSON COUNTY, NORTH CAROLINA THAT:

Section 1. The Henderson County Board of Commissioners hereby officially adopts the update to the Fair Housing Plan to affirmatively further fair housing.

Section 2. The Henderson County Board of Commissioners hereby officially adopts the Equal Employment Procurement Policy, to provide to the greatest extent possible, equal opportunities for minorities and disadvantaged populations in the employment and procurement of the grant.

Section 3. The Henderson County Board of Commissioners hereby officially adopts the Section 3 Plan, whereby local residents and area owned firms are given maximum opportunity to provide goods and service for the grant.

Section 4. The Henderson County Board of Commissioners hereby officially adopts the Section 504 Plan. The County will comply with the equal access requirements of Section 504 of the Rehabilitation Act of 1973 to protect people with disabilities or handicaps from discrimination in programs and activities that receive federal assistance.

Section 5. This resolution shall take effect immediately and be effective for the life of the grant (CDBG No. 08-C-1848).

Adopted and approved this the 18th Day of March 2009.

William Moyer, Chairman

Attest: County Clerk to the Board

Henderson County’s Plan to Further Fair Housing

Henderson County

Recipient

1 Historic Courthouse Square, Suite 1,
Hendersonville, NC 28792

Recipient’s Address

Karen A. Kiehna
Contact Person

(828) 649-2854
Telephone Number

Karen@landofsky.org

Contact email address

I. Indicate if the Recipient will be affirmatively furthering fair housing for the first time or has implemented specific activities in the past.

First Time _____ Past Activities X

II. Identify and analyze obstacles to affirmatively furthering fair housing in recipient’s community. (Use additional pages as necessary)

1. Henderson County is western North Carolina Count. The following obstacles have been identified:

- a. The regions mountainous terrain*
- b. Distance to regions primary supportive service.*

III. Briefly describe the activities that the recipient will undertake over the active period of the grant to affirmatively further fair housing in their community. A time schedule for implementation of these activities must be included. Activities must be scheduled for implementation at least on a quarterly basis. (Use additional pages as necessary)

<u>Activities</u>	<u>Date(s) to be implemented</u>
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Publish Fair Housings Notice in Henderson County Times-News and provide Complaint forms at Co.	Feb/Mar/April 09
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Distribute Housing Discrimination Complaint Forms to all Library and Police Station.	April/may/June 09
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Link the Henderson County Website with the Land-of-Sky Regional Housing Directory and Resource Services Quarter	July/Aug/Sept 09
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<i>Link Henderson County Website with the Socialserve.com Affordable rental housing finder.</i>	<i>Oct/Nov/Dec 09</i>
<i>Support the Regions Housing Consortium to distribute A Housing Resources Directory for Henderson County</i>	<i>Jan/Feb/Mar 2010</i>
<i>Publish Fair Housings Notice in Henderson County Times News.</i>	<i>April/May June 10</i>
<i>Meet with Pisgah Legal Services to enhance the County's Fair Housing Strategies</i>	<i>July/Aug/Sept 10</i>
<i>Meet with the Housing Assistance Corporation of Henderson County To promote program assistance and fair housing initiatives. 9th Quarter</i>	<i>Oct/Nov/Dec 2010</i>
<i>Public Fair Housing Notice in Henderson County Times-News</i>	<i>Jan/Feb/March 2011</i>
<i>Distribute Housing Discrimination Complaint Forms to all Library and Police Stations.</i>	<i>April/may/June 20 11</i>

IV. Will the above activities apply to the total municipality or county?

Yes X No _____ If no, provide an explanation.

V. Describe recipient's method of receiving and resolving housing discrimination complaints. This may be either a procedure currently being implemented or one to be implemented under this CDBG grant. Include a description of how the recipient informs the public about the complaint procedures. (Use additional pages as necessary)

- 1. Any person or persons wishing to file a complaint of housing discrimination in Henderson County may do so by informing the Henderson County Manager in writing of the facts and circumstance of the alleged discriminatory acts or practice.**
- 2. Upon receiving a housing discrimination complaint, the Henderson County Manager shall acknowledge the complaint within 10 days in writing and inform the North Carolina Human Relations Commission about the complaint.**

3. **Henderson *County Manager* shall offer assistance to the Commission in the investigation and reconciliation of all housing discrimination complaints which are based on events occurring in Henderson *County*.**
4. **Henderson *County Manager* shall publicize in the local newspaper who is the local agency to contact with housing discrimination complaints.**

APPROVED BY:

Signature of Chairman

Chairman, Henderson County Board of Commissioners
Title:

March 18, 2009
Date

**Henderson County
Equal Employment and Procurement Plan**

Henderson County maintains the policy of providing equal employment opportunities for all persons regardless of race, color, religion, sex, national origin, handicap, age, political affiliation, or any other non-merit factor, except where religion, sex, national origin, or age are bona fide occupation qualifications for employment.

In furtherance of this policy, the County prohibits any retaliatory action of any kind taken by any employee of the locality against any other employee or applicant for employment because that person made a charge, testified, assisted or participated in any manner in a hearing, proceeding or investigation of employment discrimination.

The County shall strive for greater utilization of all persons by identifying previously under utilized groups in the work force, such as minorities, women, and the handicapped, and making special efforts toward their recruitment, selection, development and upward mobility and any other term, condition, or privilege of employment.

Responsibility for implementing equal opportunities and Affirmative Action measures is hereby assigned to the County Manager to assist in the implementation of this policy statement.

The County shall development a self-evaluation mechanism to provide for periodic examination and evaluation. Periodic reports as requested on the progress of Equal Employment Opportunity and Affirmative Action will be presented to the Board of Commissioners.

Henderson County is committed to this policy and is aware that with its implementation, the County will receive positive benefits through the greater utilization and development of all its human resources.

Adopted this 18th day of March 2009.

William Moyer, Chairman

ATTEST:

(County Clerk to the Board)

RESOLUTION
HENDERSON COUNTY
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)

RESOLUTION TO UPDATE HENDERSON COUNTY ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING FOR COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAMS GRANT #08-C-1848

Be it Resolved by Henderson County Board of Commissioners, Henderson County, North Carolina That:

WHEREAS, Henderson County is participating in the Community Development Block Grant Program under the Housing and Community Development Act of 1974, as amended, administered by the North Carolina Department of Commerce; and

WHEREAS, Henderson County has been allocated funds under Title I of the Housing and Community Development Act of 1974; and

WHEREAS, Henderson County wishes to affirmatively further fair housing opportunities for its citizens; and

WHEREAS, Henderson County wishes to adopt the Analysis of Impediments to Fair Housing Report for the term of the CDBG Small Business and Entrepreneurial Assistance Program Grant # 08-C-1848; now

THEREFORE, BE IT RESOLVED that Henderson County Board of Commissioners, Henderson County, North Carolina hereby adopt the attached Analysis of Impediments to Fair Housing Report.

Adopted and Approved this the 18th day of March 2008.

William Moyer, Chairman

County Clerk to the Board

RESOLUTION

A RESOLUTION ACCEPTING THE COMMUNITY DEVELOPMENT BLOCK GRANT 2008
SMALL BUSINESS AND ENTREPRENEURIAL ASSISTANCE GRANT AGREEMENT,
FUNDING APPROVAL AND SPECIAL CONDITIONS -- CDBG NO. 08-C-1848

WHEREAS, Henderson County is participating in the Community Development Block Grant Program under the Housing Act of 1974, as amended, administered by the North Carolina Department of Commerce; and

WHEREAS, Henderson County has been allocated a CDBG Small Business and Entrepreneurial Assistance Grant in the amount of \$200,000 under Title I of the Housing and Community Development Act of 1974 for activities related to infrastructure construction activities associated with The Warm Company Facility expansion; and

WHEREAS, Henderson County must accept and subsequently meet the conditions contained therein in order to begin receiving reimbursement payments for funded activities;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF HENDERSON COUNTY, NORTH CAROLINA, THAT:

Section 1. The Board Chairman is hereby authorized to execute the 2008 Funding Approval and Special Conditions document on behalf of the County.

Section 2. The County Manager and the Director of Planning are hereby authorized to execute Grant and Construction Contracts, and Project Documents on behalf of the County.

Section 3. This Resolution shall become effective upon its adoption and approval.

Adopted and Approved this 18th day of March 2009.

William Moyer, Chairman

ATTEST:

Clerk to the Board of Commissioners

RESOLUTION

**HENDERSON COUNTY
COMMUNITY DEVELOPMENT PROGRAM**

OPTIONAL COVERAGE RELOCATION PLAN RESOLUTION

A Resolution Authorizing the Adoption of an Optional Coverage Relocation Plan for the Henderson County Community Development Block Grant Program Grants # 08-C-1848.

Be it Resolved by the County Board of Commissioners of Henderson, North Carolina, that:

WHEREAS, the County of Henderson is participating in the Community Development Block Grant Program under the Housing and Community Development Act of 1974, as amended, administered by the North Carolina Department of Commerce; and

WHEREAS, the relocation of individuals and families is an eligible activity under this Program;

WHEREAS, the Henderson County has been allocated funds under Title I of the Housing and Community Development Act of 1974; and

WHEREAS, it is the objective, spirit and intent of the Community Development Block Grant to achieve the revitalization of neighborhoods through improvements of housing conditions for low and moderate income citizens; and

WHEREAS, the rehabilitation of some dwelling units is so extensive that the work cannot be accomplished without temporarily dislocating the residents from their properties; and

WHEREAS, some occupied dwelling units are unfit for human habitation, financially, and structurally not feasible for rehabilitation, and require demolition; and

WHEREAS, it is often undesirable to permanently dislocate some residents from their properties, change their status from homeowners to tenants, or increase their financial burden for housing costs; and

WHEREAS, Section 105(a)(11) of the Housing and Community Development Act of 1974, as amended, permits a CDBG grantee to design and administer an "Optional Coverage" relocation program which can provide benefits to displaces of dilapidated units which are subject to removal through local code enforcement activities (without real property acquisition), voluntary demolition or provide assistance to residents that are temporarily dislocated from their properties; and

WHEREAS, such relocation benefits must be utilized by the qualified recipient to obtain standard housing, cover moving and related costs for those individuals displaced by grant activities; and

WHEREAS, an Optional Coverage Relocation Plan has been prepared ; and

WHEREAS, it is the desire of the County to foster such worthy objectives with the Community Development Block Grant program.

THEREFORE, BE IT RESOLVED that Henderson County, North Carolina hereby adopts the attached policy of Optional Coverage Relocation Plan, as set forth in Section 105(a)(11) of the Housing and Community Development Act of 1974, as amended. Such plan is to cover any and all financial obligations incurred during any necessary relocation of affected citizens.

Adopted this 18th day of March 2009.

William Moyer, Chairman

ATTEST:

(County Clerk to the Board)



**North Carolina Division of Community Assistance
Community Development Block Grant Program**

Funding Approval

1. Name and Address of Recipient

County of Henderson
213 1st Avenue East
Hendersonville, North Carolina 28792

2. Grant Number and Funding Approval Date

Grant Number: 08-C-1848
Date of Original Funding Approval : 02/02/09
Date of Amended Funded Approval:

3. Approved Projects

Project Name	Amount	Approved Amount
The Warm Company SBEA Project		\$200,000
		\$0
Total Grant Award		\$200,000

4. Funding Approval Conditions

The following conditions must be removed in writing by the Division of Community Assistance (DCA) in order for all funds to be released for the approved projects listed in item (3), above:

A. Environmental Condition:

No funds may be obligated or expended in any project activity except for the administration activity in the C-1 project until the recipient has complied with the Environmental Review Procedures for the N.C. CDBG Program and the CDBG regulations contained in 4 NCAC 19L.1004.

B. Citizen Participation and Compliance Condition:

No funds may be obligated or expended in any project activity except for the administration activity until DCA is provided with the following documentation of compliance with citizen participation requirements in the application process [4NCA 19L.1002(b)]: publisher's affidavits of notices for and minutes signed by the town (or the county as applicable) clerk of the two required public hearings.

C. Administration Contracts/Inter-local agreements Condition:

No funds may be obligated or expended in any project activity except the administration activity until the recipient has submitted either a copy of the contract awarded for administration of this grant or a statement signed by the CEO stating that the contract will be administered internally.

D. Performance Based Contract Condition:

No funds may be obligated or expended in any project activity except for the administration activity until the recipient has returned to DCA one copy of the properly completed Performance Based Contract signed by the CEO.

4. Funding Approval Conditions, Continued**E. Use of Experienced CDBG Administrator:**

No funds may be obligated or expended for the administration activity until the recipient has submitted a statement signed by the CEO stating that they will be using an experienced CDBG administrator or local government staff. This person should be one who has actually administered more than one (1) CDBG project. Please note that if issues result from the CDBG administrator, the local government will be subject to 4 NCAC 19L

F. Assurance Condition:

No funds may be obligated or expended in any activity except for administration activity until the recipient provides assurance to DCA that The Warm Company will provide reports, schedules, and other information requested as well as attend meetings that may be called by DCA.

5. Signature of Authorized Official

Name *Gloria Nance-Sims*
Gloria Nance-Sims

02/02/09
Date

Director, Division of Community Assistance

Title

6. Signature of Authorized Local Official

Name

Date

Title



North Carolina Department of Commerce
Division of Community Assistance
Community Development Block Grant Program

Grant Agreement
Small Business & Entrepreneurial Assistance (SBEA)

Upon execution of this grant agreement, the North Carolina Department of Commerce (DOC) agrees to provide to the recipient Community Development Block Grant assistance under Title I of the Housing and Community Development Act of 1974, (P.L. 93-383), as amended, authorized by the DOC funding approval, the North Carolina Community Development Block Grant administrative rules, applicable laws and **all other requirements of DOC now or hereafter in effect**. The grant agreement is effective on the date the grant agreement and funding approval are signed by the recipient. The grant agreement consists of the approved application, including the certifications, maps, schedules and other submissions in the application, any subsequent amendments to the approved application and funding approval and the following general terms and conditions:

1. **Definitions.** Except to the extent modified or supplemented by the agreement, any term defined in the North Carolina Community Development Block Grant Administrative Rules, 4 NCAC 19L, shall have the same meaning when used herein.
 - (a) Agreement means this grant agreement, as described above, and any amendments or supplements thereto.
 - (b) Recipient means the entity designated as a recipient for grant assistance in the grant agreement and funding approval.
 - (c) Certifications mean the certifications submitted with the grant application pursuant to the requirements of Paragraph (e) of Rule .0407 of the North Carolina Community Development Block Grant Administrative Rules, 4 NCAC 19L.
 - (d) Assistance provided under this agreement means the grant funds provided under this agreement.
 - (e) Program means the community development program, project, or other activities, including the administration thereof, for which assistance is being provided under this agreement.
 - (f) The date for receiving the grant means the date of the DCA Director's signature on the Grant Agreement and Funding Approval.

2. **Obligations of the Recipient.** The recipient shall perform the program as specified in the application approved by DOC. The recipient shall comply with the certification pursuant to Paragraph (e) of Rule .0407 of the North Carolina Community Development Block Grant Administrative Rules, 4 NCAC 19L. **The recipient shall also comply with all other lawful requirements of DOC, all applicable requirements of the General Statutes of the State of North Carolina specifically N. C. G. S. 87-1 thru 87-15.9 and any other applicable laws and Executive Orders currently or hereafter in force.**

3. **Obligations of Recipient with Respect to Certain Third Party Relationships.** DOC shall hold the recipient responsible for complying with the provisions of this agreement even when the recipient designates a third party or parties to undertake all or any part of the program. The recipient shall **comply with all lawful requirements of DOC** necessary to insure that the program is carried out in accordance with the recipient's certifications including the certification of assumption of environmental responsibilities under Rule .1004 of the North Carolina Community Development Block Grant Administrative Rules, 4 NCAC 19L. If the recipient contracts with or designates a third party to undertake all or part of the program in exchange for a grant or loan from the recipient to the third party of all, or a portion, of the recipient's grant funds, the recipient's contract with the third party must require the third party to comply with the procurement standards set forth in 4 N. C. Administrative Code 19L .0908.

4. **Conflict of Interest.** None of the following or their immediate family members, during the tenure of the subject person or for one year thereafter, shall have any direct or indirect financial interest in any contract, subcontract or the proceeds thereof for work to be performed in connection with the program assisted under this agreement: employees or agents of the recipient who exercise any function or responsibility with respect to the program, and officials of the recipient, including members of the governing body. The same prohibition shall be incorporated in all such contracts or subcontracts.

The assistance provided under this agreement shall not be used in the payment of any bonus or commission for the purpose of obtaining DOC approval of the application for such assistance, or DOC approval of applications for additional assistance, or any other approval or concurrence of DOC required under this agreement, or the North Carolina Community Development Block Grant Administrative Rules, with respect thereto; provided, however, that reasonable fees or bona fide technical, consultant, managerial or other such services, other than actual solicitation, are not prohibited if otherwise eligible as program costs.

5. **Reimbursement to DOC for Improper Expenditures.** The recipient **shall (and does agree) to reimburse DOC** for any amount of grant assistance improperly expended, either deliberately or non-deliberately. **A contract for administrative services should include a clause holding the administrator's organization responsible for reimbursement to the recipient for any improperly expended grant funds that had to be returned to DOC.**

6. **Access to Records.** The recipient shall provide any duly authorized representative of DOC, the federal Department of Housing and Urban Development (HUD), and the

Comptroller General at all reasonable times access to and the right to inspect, copy, monitor, and examine all of the books, papers, records, and other documents relating to the grant for a period of five years following the completion of all close-out procedures. All original files shall be maintained at the Local Government offices for access purposes.

7. Project Savings. The recipient is obligated to contribute 100 percent of its pledged cash contribution to the CDBG project even if the project experiences a savings after authorized activities are completed. Any project savings accrue to the CDBG program. **Substitution of in-kind contributions for cash is not allowed.**
8. Expenditure of Non-CDBG Funds. The recipient must ensure that non-CDBG funds are expended along with CDBG funds, following the implementation schedule described in the approved application and modified by the Performance Contract, and shall report on non-CDBG expenditures with each Annual Performance Report, consistent with Section .1100 PERFORMANCE of the program regulations (4NCAC 19L).
9. Method of Payment. The Department of Commerce uses the Office of State Controller (OSC) to make CDBG payments to units of local government. The Electronic Payment Form from OSC must be completed for funds to be electronically transferred.
10. Fair Housing. For each grant year that a CDBG is active, a recipient must describe the actions it will take in the areas of enforcement, education and removal of barriers and impediments to affirmatively further fair housing. Guidance for developing a Fair Housing Plan can be found in DCA Bulletin 93-4.
11. Equal Employment and Procurement Opportunity. A recipient must describe the actions it will take annually while the grant is open in the areas of enforcement, education and removal of barriers and impediments that affirmatively further equal access in employment and procurement. This includes a description of steps to be taken in the areas of advertisement, compliance and complaint tracking.
12. Local Economic Benefit (Section 3 Regulation). For each year that a CDBG is active, a recipient must describe a strategy whereby opportunities in employment and procurement arising out of a CDBG assisted project are identified and made available to low-income residents within the CDBG assisted area to the greatest extent feasible. This strategy must include (1) identification of training and technical assistance resources to prepare low-income residents for employment and procurement opportunities, (2) attempts to reach the numerical targets for new hires set forth in the Section 3 regulation, which applies to recipients receiving \$200,000 or more in non-administrative line items expended for construction contracts of at least \$100,000 per contract, and (3) education of low-income residents within the CDBG assisted area about the components and opportunities of the program.
13. Section 504 and ADA. Recipients must complete the Section 504 Survey and Transition Plan. This plan will not satisfy all the requirements of the Americans with Disabilities Act, but it will meet the minimum requirements for a CDBG assisted project.

14. Obligation of Recipient With Regard to Vacant Units. The recipient shall ensure that all vacant units being rehabilitated will be occupied by a low or moderate income person by the time close-out occurs.
15. Utility Assessments or Fees: Assessments or fees to recover the CDBG funded portion of a utility project may be charged to properties not owned and occupied by low and moderate income persons. Such assessments are program income and, as such, must be used for eligible CDBG activities that meet a CDBG national objective.
16. Schedules
- (a) Schedule for Release of Conditions and Completion Activities. **The recipient must satisfy all Funding Approval Conditions to release CDBG funds within 3 months (May 4, 2009) from the date the Grant Agreement and Funding Approval were signed by the DCA Director.** The recipient must draw down all CDBG funds, expend all local non-CDBG funds and complete all project activities in conformance with the activities implementation schedule in the application as modified by the Performance Based Contract. **The recipient must obligate all funds within 27 months (May 2, 2011) from the date the Grant Agreement and Funding Approval are signed by DCA Director. All funds are to be expended within 30 months (August 2, 2011) from the date the Grant Agreement and Funding Approval are signed by DCA Director. Any remaining funds will be de-obligated. All closeout documents must be returned to DCA by (November 2, 2011).** Consistent with Section .1104 of the program regulations (4NCAC 19L), based on review of the recipient's performance for conformance with the approved application and approved performance schedules, the Secretary of Commerce may withdraw the grant, except for funds already expended.
- (b) Schedule for Submission of Compliance Documents. The recipient must submit the following compliance documents within the specified number of months from the date the Grant Agreement and the Funding Approval were signed by the DCA Director:
- Environmental – 3 months (May 4, 2009)
 - Equal Employment and Procurement Plan – 4 months (June 2, 2009)
 - Fair Housing – 4 months (June 2, 2009)
 - Section 3 Plan – 4 months (June 2, 2009)
 - Section 504 Plan – 4 months (June 2, 2009)
 - Request for Release of Funds – 5 months (July 2, 2009)
 - Analysis of Impediments – 6 months (August 3, 2009)
- (c) Schedule for Drawdown of Funds: The recipient must comply with the **Performance Based Contract** schedule to ensure that funds are drawn down in accordance with 16 (a) of this Grant Agreement.

17. Performance Measures

The CPD Performance Measurement System is HUD's response to the standards set by the Government Performance and Results Act (GPRA) of 1993. This act holds all Federal agencies accountable for establishing goals and objectives and measuring achievements.

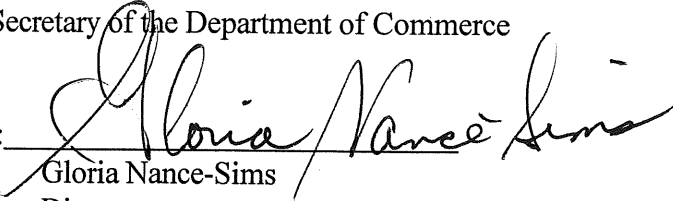
- (a) The recipient must ensure that all activities in the funded project(s) meet the appropriate objectives, outcomes, and indicators established by HUD and selected by DOC. CDBG funds cannot be used to pay for any activity that does not meet the above requirement.

- (b) The recipient must also assist DOC, when requested, in collecting indicators and any other data necessary to fulfill the requirements of the CPD Performance Measures System, which includes data for the Integrated Disbursement and Information System (IDIS).

Upon execution of this agreement by DOC and the recipient, the recipient hereby accepts the assistance on the terms of this grant agreement effective on the date indicated below, and further certifies that the official signing this document has been duly authorized by the recipient's governing body to execute this Grant Agreement.

Secretary of the Department of Commerce

Date: February 2, 2009

By: 
 Gloria Nance-Sims
 Director
 Division of Community Assistance

Date: _____

 Name of Recipient

By: _____
 Signature of Authorized Official

 (Title)

Performance Based Contract: Implementation Schedule

Grantee: Henderson County

Grant Number: 08-C-1848

First Quarter begins on the date of DCA Director's signature on the Grant Agreement and Funding Approval.

List goals to be accomplished each Quarter.

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	5th Quarter	6th Quarter	7th Quarter	8th Quarter	9th Quarter	10th Quarter
	% Process Completed Description	% Process Completed Description	% Process Completed Description	% Process Completed Description	% Process Completed Description	% Process Completed Description	% Process Completed Description	% Process Completed Description	% Process Completed Description	% Process Completed Description
1. Administrative Activities Grant Agreement and Funding Approval	100%									
b. Environmental Condition	100%									
c. Citizen Participation Condition	100%									
d. Flood Plain Compliance Condition	100%									
e. Other Conditions 1.	100%									
2. Administration	10%	20%	30%	40%	50%	60%	70%	80%	90%	100%

Performance Based Contract: Implementation Schedule

Name of Grantee: Henderson County

Grant Number: 08-C-1846

First Quarter begins on the date of DCA Director's signature on the Grant Agreement and Funding Approval.

List goals to be accomplished each Quarter. Activities should correspond to those on the Budget and Benefit: Low and Moderate Income forms in the application approved for funding.

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	5th Quarter	6th Quarter	7th Quarter	8th Quarter	9th Quarter	10th Quarter
	% Units	% Units	% Units	% Units	% Units	% Units	% Units	% Units	% Units	% Units
2. Housing Activities										
a. Relocation	N/A									
b. Acquisition	N/A									
c. Disposition	N/A									
d. Clearance	N/A									
e. Rehabilitation of Privately owned	N/A									
f. Units Constructed	N/A									
g. Units Occupied	N/A									

Performance Based Contract: Implementation Schedule

Name of Grantee: Henderson County

Grant Number: 08-C-1848

First Quarter begins on the date of DCA Director's signature on the Grant Agreement and Funding Approval.

List goals to be accomplished each Quarter. Activities should correspond to those on the Budget and Benefit: Low and Moderate Income forms in the application approved for funding.

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	5th Quarter	6th Quarter	7th Quarter	8th Quarter	9th Quarter	10th Quarter
	Completed	Completed	Completed	Completed	Completed	Completed	Completed	Completed	Completed	Completed
3. Water Improvements Engineering Bidding Process Contract Awarding Construction/Installation Work Completed	N/A									
4. Sewer Improvements Engineering Bidding Process Contract Awarding Work Consturction Work Completed	N/A									
5. Street Improvements Engineering Bidding Process Contract Awarding Construction/Installation Work Completed	N/A									
6. Drainage Improvements Engineering Bidding Process Contract Awarding Construction/Installation Work Completed	N/A									
6A. Other Activities Work Completed Removal of Architectural Barriers Project Closeout	N/A									

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	5th Quarter	6th Quarter	7th Quarter	8th Quarter	9th Quarter	10th Quarter
	% Process Completed	% Process Completed	% Process Completed	% Process Completed	% Process Completed	% Process Completed	% Process Completed	% Process Completed	% Process Completed	% Process Completed
	Description	Description	Description	Description	Description	Description	Description	Description	Description	Description
6B. Other Activities Work Completed Playground Facilities Public Services CDC	N/A									
6C. Other Activities Work Completed MicroEnterprise Program Job Training Program Neighborhood Clean up (public services)	N/A									
9. G Construction, rehabilitation preservation. Construction/rehabilitaiton of Commercial and industrial buildings. Engineering Bidding Process Contract Awarding Work Consturction Work Completed		50%	100% 100%	100%	20%	40%	60%	80%	100% 100%	
6E. Other Activities Work Completed	N/A									
6F. Other Activities Work Completed	N/A									

8. Signature of Authorized Local Official

Name **William Moyer**

Signature

Chairman, Henderson County Board of Commissioners
Title

Date

9. Signature of Authorized DCA Official

Name **Gloria Nance-Sims**

Director, Division of Community Assistance
Title

Date