

REQUEST FOR BOARD ACTION

HENDERSON COUNTY

BOARD OF COMMISSIONERS

MEETING DATE: August 4, 2014

SUBJECT: Letter of Conditions for USDA Grant
Old Fairgrounds Grading Project

PRESENTER: Marcus A. Jones, P.E.

ATTACHMENTS: Yes

1. USDA Resolution and Letter of Conditions
2. Supporting Documents from USDA

SUMMARY OF REQUEST:

With the County's USDA grant application dated February 14, 2014, the attached Letter of Conditions, Resolution and supporting document need Board approval and the Chairman's Signature. Ms. Pam Hysong, Area Director for USDA will be available to answer questions regarding the attached documents or the grant process. Will Buie from WGLA Engineering and Andrew Tate with the Partner for Economic Development will also be available for more project specific questions from the Board.

The project scope is to prepare the site for a potential Industry by grading a generic building pad that is ready for an Industries building construction. The project design is complete with permitting in progress. With USDA approval, the project could be bid and completed during this calendar year. The \$75,000 local match has been approved in the current budget; the USDA grant is for \$175,000.

BOARD ACTION REQUESTED:

Adopt the resolution accepting the requirements detailed in the Letter of Conditions attached to the August 4, 2014 letter from USDA for the Old Fairgrounds Grading Project grant.

Suggested Motion:

I move that the Board adopt the resolution accepting the requirements detailed in the Letter of Conditions attached to the August 4, 2014 letter from USDA for the Old Fairgrounds Grading Project grant.



Mr. Steve Hyatt, County Manager
Henderson County
1 Historic Courthouse Square, Suite 1
Hendersonville, NC 28792

August 4, 2014

Dear Mr. Hyatt:

Attached is a copy of the Letter of Conditions upon which the Henderson County Board of Commissioners must take action. Below is a list of items along with detailed instruction that need Council's action.

Several are documents that have signatures that need to be "attested". Please ensure that the Chairman signs each document and that the Clerk to the Board of Commissioners witnesses the signature of the chairman by signing and sealing the document with the county's seal.

1. **Letter of Conditions:** The Board of Commissioners must *adopt a resolution* accepting the requirements in the Letter of Conditions. The resolution must also include a statement that they also accept the mitigation measures required in the project environmental assessment. Provide Rural Development with a copy of the adopted resolution. A sample resolution is attached; however, if you prefer to create your own resolution, it must contain the same information as in the sample provided.
2. **Form 1942-46, Letter of Intent to Meet Conditions:** The Chairman must sign this form.
3. **Form 1940-1, Request for Obligation of Funds:** The Chairman must sign this form.
4. **Form 400-1, Equal Opportunity Agreement:** The Chairman must sign this form, with his signature attested by the Clerk.
5. **Form 400-4, Assurance Agreement:** The Chairman must sign this form, with his signature attested by the Clerk.
6. **Form AD 1047, Certification Regarding Debarment, Suspension etc...:** The Chairman must sign this form.
7. **Form AD 1049, Certification Regarding Drug-free Workplace:** The Chairman must sign this form. In addition, the Board of Commissioners must pass a resolution accepting the drug-free workplace provisions as specified in this document. The sample resolution contains language necessary to meet this requirement.

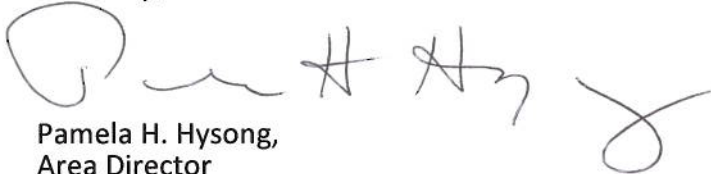
Rural Development
84 Coxe Avenue, Suite 1E; Asheville, NC 28801
Phone: 828-254-0916 Ext. 5, Fax: 828-254-9952

USDA is an equal opportunity provider and employer.

8. **Certification of Compliance:** The Chairman must sign this form.
9. **Form SF-3881, ACH Vendor/Miscellaneous Payment Enrollment form:** Used to set up the ACH transfer of grant funds to the County's designated bank account, the "Payee" and "Financial Institution Information" portions must be completed. Return the form to this office.
10. **Certified List of Elected Officials:** Provide a **certified** list of the names of the elected officials comprising the Henderson County Board of Commissioners, offices held, and when their respective terms of office end.
11. **Copy of your Current Audit Agreement:** Provide a copy of the County's agreement with the auditor for the current year.
12. **Resolution accepting Final Plans/Specifications:** Once the final plans and specifications are prepared by the project engineer and prior to bidding the project, the Board of Commissioners must pass a resolution accepting the plans and specifications.

Please feel free to call me if you have any questions. I will be glad to assist you any way that I can.

Sincerely,

A handwritten signature in black ink, appearing to read 'Pamela H. Hysong', written in a cursive style.

Pamela H. Hysong,
Area Director



**United States Department of Agriculture
Rural Development**

Mr. Charlie Messer, Chairman
Henderson County Board of Commissioners
1 Historic Courthouse Square, Suite 1
Hendersonville, NC 28792

August 4, 2014

RE: Letter of Conditions
Old Fairgrounds Grading Project

Dear Mr. Messer:

This letter establishes conditions that must be understood & agreed to by you before further consideration may be given to the application. Any changes in project cost, source of funds, scope of services, or any other significant changes in the project or application must be reported to and approved by Rural Development by written amendment to this letter. Any changes not approved by Rural Development shall be cause for discontinuing processing of the application.

This letter is not to be considered as approval of a Appalachian Regional Commission (ARC) Grant funded under the Rural Housing Service Community Facilities Grant Program of Rural Development or as a representation as to the availability of funds. The docket may be completed on the basis of an ARC grant not to exceed \$175,000 and an applicant contribution of \$75,000 for a total project cost of \$250,000.

This letter establishes conditions that must be understood and agreed to by you before further consideration may be given to the application. This grant will be administered, on behalf of the Appalachian Regional Commission (ARC) by USDA through the State and Area staff of USDA, Rural Development and in accordance with the Memorandum of Agreement between the Appalachian Regional Commission and Rural Development dated August 6, 1998 that became effective August 24, 1998.

Any changes in project costs, sources of funds, scope of services, or any other significant changes in the project or applicant must be reported to and approved by USDA Rural Development by written amendment to this letter. Any changes not approved by Rural Development shall be cause for discontinuing processing of the application.

84 Coxe Avenue, Suite 1E, Asheville, North Carolina 28801
Phone: (828) 254-0916 Ext 7 • Cell: (828) 273-3373 • Fax: (828) 696-2915 • TDD: (919) 873-2003
Web: <http://www.rurdev.usda.gov/nc> Email: pam.hysong@nc.usda.gov
Committed to the future of rural communities.

"USDA is an equal opportunity provider, employer and lender."
To file a complaint of discrimination write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice or TDD).

Please complete and return the attached Form RD 1942-46, 'Letter of Intent to Meet Conditions' if you desire that further consideration be given to your application.

If the conditions set forth in this letter are not met within 12 months from the date hereof, USDA-Rural Development reserves the right to discontinue processing the application.

Disbursement of Funds:

The applicant contribution in the amount of \$75,000 will be the first funds disbursed. ARC grant funds are the last monies to be disbursed. Because the ARC grant funds are the last monies used to fund the project, any excess project funds will be reimbursed to ARC.

Organization:

The applicant must provide a certification concerning its organization, authority to enter installment purchase contracts, and compliance with special laws and regulations in accordance with Rural Development Instruction 1942-A, paragraph 1942.17(k)(1)(i).

Accounting, Audits, and Reports:

- **Annual Audits:** Accounting and auditing will be established and maintained in accordance with requirements of Rural Development Instruction 1942-A, paragraph 1942.17(q), O.M. B. Circular 133, and the NC General Statutes.
- **Financial Accounting during Construction:** During the construction period, the applicant must provide monthly reports using form SF 425, Financial Status Report and the Project Outlay Report. All disbursements must be documented with copies of invoices.

Insurance and Bonding:

Insurance and bonding should be obtained in accordance with USDA Rural Development Instruction 1942.17(j)(3) and maintained after grant closing until the grant is paid-in-full. The following minimum amounts will be considered adequate:

- **Fidelity Bond:** Fidelity Bond coverage must be obtained and maintained for all officials entrusted with the receipt and disbursement of funds, and custody of valuable property. The minimum amount of the bond should be \$50,000.
- **General Corporation Liability:** Liability coverage including vehicular liability should be obtained in amounts determined adequate by the corporation and its attorney.
- **Worker's Compensation:** Coverage should be maintained in accordance with State Law, if /when Center Community Center Association hires paid employees.
- **Fire, Theft, and Collision (Vehicles):** Coverage in an amount equal to the depreciated replacement value of the building held as security for the Rural Development grant.

The applicant must furnish a certificate of insurance and bonding to USDA, Rural Development

Grant Resolution:

A resolution must be passed agreeing to the terms and conditions of this letter. Adoption of this document should be made a part of the official minutes of the applicant. The applicant is to provide for, execute, and comply with Form RD 400-4, Assurance Agreement and form AD 1049, Certification Regarding Drug-free Workplace, must also be formally adopted on the same date.

Debarment Certification:

Prior to grant approval, the applicant must certify that they are not debarred or suspended from Federal Non-procurement Programs by use of Form AD-1047, Certification Regarding Debarment, Suspension, Ineligibility, and other Responsibility Matters – Primary Covered Transactions. Also, form AD-1048, Certificate Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion – Lower Tier Covered Transactions, must be executed by lower tier parties (builders, contractors, dealers, suppliers, manufacturers and others) involved in transactions exceeding \$25, 000.00.

Processing Checklist:

All applicable items set out in form NC 1942-13, Processing Checklist (Community Facility, Public Body), apply to this project and become a part of this Letter of Conditions.

Disposition of Property:

The grantee understands that any property acquired or improved with Federal Grant funds may have us and disposition conditions which apply to the property as provided by 7 CFR parts 3015, 3016, or 3019 in effect at this time and as may be subsequently modified. The grantee understands that any sale or transfer of property is subject to the interest of the United States Government in the market value, in proportion to its participation in the project, as provided by 7 CFR parts 3015, 3016, or 3019 in effect at this time and as may be subsequently modified.

Debarment Certification:

Prior to grant closing, the Applicant must certify that they are not debarred or suspended from Federal Non-procurement Program by use of Form AD-1047, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions." Also, Form AD-1048, "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion - Lower Tier Covered Transactions," must be executed by lower tier parties (builders, contractors, dealers, suppliers, manufacturers, and others) involved in transactions exceeding \$25,000.

Procurement of Construction Services & Supplies / Equipment:

The project shall be formally advertised for bids in accordance with RD Instruction 1942-A, paragraph 1942.189 and state and local laws and regulations applicable to this type of procurement. Procurement by other than formal advertising may be used upon written concurrence by Rural Development in accordance with Rural Development Instruction 1942-A, paragraph 1942.18(k). Formal advertising may be used for any procurement, however, at the option of the applicant.

Contracts shall be awarded on the basis of the lowest bid of acceptable materials and equipment and in accordance with RD Instruction 1942.18. If contract award is proposed to other than the lowest bidder, documentation for such must be provided to Rural Development. The Rural Development State Engineer must provide written concurrence prior to the awarding of any contract by the Applicant.

Mitigation Measures:

The environmental assessment identified environmental resources that must be protected through the use of mitigation measures. The required mitigation measures are attached as Exhibit A to this document and must be accepted and enforced during both construction and once the project is operational.

Processing Checklist:

All applicable items set out in form NC 1942-13, Processing Checklist (Community Facility-Public Body), apply to this project and become a part of this Letter of Conditions.

Other Conditions:

- a. Compliance with Special Laws and Regulations.
- b. State Pollution Control or Environmental Protection Agency standards
- c. Consistency with other development plans
- d. State agency regulating water rights
- e. Civil Rights Act of 1964.
- f. Title IX of the Education Amendments of 1972
- g. Section 504 of the Rehabilitation Act of 1973
- h. Age Discrimination Act of 1975

Please feel free to contact me if you have any questions about any of the above conditions.

Sincerely,



Pamela H. Hysong,
Area Director

Exhibit A-Mitigation Measures

1. Temporary or permanent herbaceous vegetation will be planted on all bare soil immediately following any ground-disturbing activities in order to prevent soil erosion. No exotic plant species will be used as temporary or permanent vegetative cover.
2. There will be strict compliance with the approved erosion and sedimentation control plan.
3. Settling ponds will collect storm water runoff from the impervious surfaces (roof, parking lots, and sidewalks).
4. Riparian buffers will be maintained for intermittent and perennial streams.
5. Although the project site was not required to be surveyed for archaeological, should artifacts or burial remains be unearthed during excavation, construction will be stopped immediately and the findings reported to the owner and project engineer.
6. Should a stream crossing be required to provide access to the central water and/or sewer services, directional boring perpendicular to the stream are required. Stream banks will be promptly stabilized during construction and monitored post-construction.

BE IT RESOLVED

That **Henderson County** accepts the conditions set forth in a Letter of Conditions dated August 4, 2014:

That the **Chairman of the Board of Commissioners** be authorized to execute all forms necessary to obtain a **grant** from USDA Rural Development, including, but not limited to the following forms:

- | | |
|-----------------|--|
| Form RD 1942-46 | Letter of Intent to Meet Conditions |
| Form RD 400-1 | Equal Opportunity Agreement |
| Form RD 400-4 | Assurance Agreement |
| Form RD 1940-1 | Request for Obligation of Funds |
| Form AD-1047 | Certification Regarding Debarment Primary Covered Transactions |
| Form AD-1049 | Certification Regarding Drug-free Workplace |
| Unnumbered Form | Certificate of Compliance |

That **Henderson County, through its Board of Commissioners** hereby agrees to abide by the mitigation requirements of the Environmental Assessment, a copy of which is attached to Letter of Conditions.

This resolution is to become a part of the official minutes of **Henderson County's Board of Commissioners** meeting held on **Monday, August 4, 2014**.

Motion Made By: ✓ _____ and

Seconded by : ✓ _____ that the resolution be approved.

MOTION PASSED ✓ _____ **FOR** ✓ _____ **AGAINST**

BY: ✓ _____
Charles D. Messer, Chairman
Henderson County Board of Commissioners

Attest: ✓ _____ **BY:** ✓ _____
(Date) **Teresa Wilson, Clerk to the Board**

LETTER OF INTENT TO MEET CONDITIONS

Date 08-04-2014

TO: United States Department of Agriculture

Rural Development

(Name of USDA Agency)

84 Coxe Avenue, Suite 1E
Asheville, NC 28801

(USDA Agency Office Address)

We have reviewed and understand the conditions set forth in your letter dated 08-04-2014 . It is our intent to meet all of them not later than 08-30-2014 .

Henderson County

(Name of Association)

BY ✓

Charles D. Messer, Chairman

(Title)

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a persons is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575-0015 and 0570-0062. The time required to complete this information collection is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data. needed, and completing and reviewing the collection of information.

REQUEST FOR OBLIGATION OF FUNDS

INSTRUCTIONS-TYPE IN CAPITALIZED ELITE TYPE IN SPACES MARKED ()					
Complete Items 1 through 29 and applicable Items 30 through 34. See FMI.					
1. CASE NUMBER ST CO BORROWER ID 38-045-*****0307		LOAN NUMBER	FISCAL YEAR		
2. BORROWER NAME Henderson County		3. NUMBER NAME FIELDS 1 (1, 2, or 3 from Item 2)			
		4. STATE NAME North Carolina			
		5. COUNTY NAME Henderson			
GENERAL BORROWER/LOAN INFORMATION					
6. RACE/ETHNIC CLASSIFICATION 1 - WHITE 2 - BLACK 3 - AI/AN 4 - HISPANIC 5 - A/PI		7. TYPE OF APPLICANT 1 - INDIVIDUAL 2 - PARTNERSHIP 3 - CORPORATION 4 - PUBLIC BODY 5 - ASSOC. OF FARMERS 6 - ORG. OF FARMERS 7 - NONPROFIT-SECULAR 8 - NONPROFIT-FAITH BASED 9 - INDIAN TRIBE 10 - PUBLIC COLLEGE/UNIVERSITY 11 - OTHER		8. COLLATERAL CODE 1 - REAL ESTATE SECURED 2 - REAL ESTATE AND CHATTEL 3 - NOTE ONLY OR CHATTEL ONLY 4 - MACHINERY ONLY 5 - LIVESTOCK ONLY 6 - CROPS ONLY 7 - SECURED BY BONDS 8 - RLF ACCT	
9. EMPLOYEE RELATIONSHIP CODE 1 - EMPLOYEE 2 - MEMBER OF FAMILY 3 - CLOSE RELATIVE 4 - ASSOC.					
10. SEX CODE 6 1 - MALE 2 - FEMALE 3 - FAMILY UNIT 4 - ORGAN. MALE OWNED 5 - ORGAN FEMALE OWNED 6 - PUBLIC BODY		11. MARITAL STATUS 1 - MARRIED 2 - SEPARATED 3 - UNMARRIED (INCLUDES WIDOWED/DIVORCED)		12. VETERAN CODE 2 1 - YES 2 - NO	
13. CREDIT REPORT 2 1 - YES 2 - NO					
14. DIRECT PAYMENT (See FMI)		15. TYPE OF PAYMENT 2 1 - MONTHLY 2 - ANNUALLY 3 - SEMI-ANNUALLY 4 - QUARTERLY		16. FEE INSPECTION 2 1 - YES 2 - NO	
17. COMMUNITY SIZE 1 - 10 000 OR LESS (FOR SFH AND HPG ONLY) 2 - OVER 10,000		18. USE OF FUNDS CODE (See FMI)			
COMPLETE FOR OBLIGATION OF FUNDS					
19. TYPE OF ASSISTANCE 097 (See FMI)		20. PURPOSE CODE 1		21. SOURCE OF FUNDS	
22. TYPE OF ACTION 1 1 - OBLIGATION ONLY 2 - OBLIGATION/CHECK REQUEST 3 - CORRECTION OF OBLIGATION					
23. TYPE OF SUBMISSION 1 1 - INITIAL 2 - SUBSEQUENT		24. AMOUNT OF LOAN		25. AMOUNT OF GRANT \$175,000.00	
26. AMOUNT OF IMMEDIATE ADVANCE		27. DATE OF APPROVAL MO DAY YR		28. INTEREST RATE 0 %	
				29. REPAYMENT TERMS	
COMPLETE FOR COMMUNITY PROGRAM AND CERTAIN MULTIPLE-FAMILY HOUSING LOANS					
30. PROFIT TYPE 1 - FULL PROFIT 2 - LIMITED PROFIT 3 - NONPROFIT					
COMPLETE FOR EM LOANS ONLY			COMPLETE FOR CREDIT SALE-ASSUMPTION		
31. DISASTER DESIGNATION NUMBER (See FMI)			32. TYPE OF SALE 1 - CREDIT SALE ONLY 2 - ASSUMPTION ONLY 3 - CREDIT SALE WITH SUBSEQUENT LOAN 4 - ASSUMPTION WITH SUBSEQUENT LOAN		
FINANCE OFFICE USE ONLY			COMPLETE FOR FP LOANS ONLY		
33. OBLIGATION DATE MO DA YR			34. BEGINNING FARMER/RANCHER (See FMI)		

If the decision contained above in this form results in denial, reduction or cancellation of USDA assistance, you may appeal this decision and have a hearing or you may request a review in lieu of a hearing. Please use the form we have included for this purpose.

Position 2

ORIGINAL - Borrower's Case Folder COPY 1 - Finance Office COPY 2 - Applicant/Lender COPY 3 - State Office

CERTIFICATION APPROVAL

For All Farmers Programs

EM, OL, FO, and SW Loans

This loan is approved subject to the availability of funds. If this loan does not close for any reason within 90 days from the date of approval on this document, the approval official will request updated eligibility information. The undersigned loan applicant agrees that the approval official will have 14 working days to review any updated information prior to submitting this document for obligation of funds. If there have been significant changes that may affect eligibility, a decision as to eligibility and feasibility will be made within 30 days from the time the applicant provides the necessary information.

If this is a loan approval for which a lien and/or title search is necessary, the undersigned applicant agrees that the 15-working-day loan closing requirement may be exceeded for the purposes of the applicant's legal representative completing title work and completing loan closing.

35. COMMENTS AND REQUIREMENTS OF CERTIFYING OFFICIAL

Subect to Rural Development Instruction 1942-A, the Letter of Conditions, the grant agreement with the Appalachian Regional Commission (ARC) and the Memorandum of Agreement with ARC.

36. I HEREBY CERTIFY that I am unable to obtain sufficient credit elsewhere to finance my actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in or near my community for loans for similar purposes and periods of time. I agree to use the sum specified herein, subject to and in accordance with regulations applicable to the type of assistance indicated above, and request payment of such sum. I agree to report to USDA any material adverse changes, financial or otherwise, that occur prior to loan closing. I certify that no part of the sum specified herein has been received. I have reviewed the loan approval requirements and comments associated with this loan request and agree to comply with these provisions.

(For FP loans at eligible terms only) If this loan is approved, I elect the interest rate to be charged on my loan to be the lower of the interest rate in effect at the time of loan approval or loan closing. If I check "NO", the interest rate charged on my loan will be the rate specified in Item 28 of this form. YES NO

WARNING: Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under this title or imprisoned not more than five years, or both."

Date August 4, 20 14

Charles D. Messer, Chairman of the Board (Signature of Applicant)

Date _____, 20 _____

(Signature of Co-Applicant)

37. I HEREBY CERTIFY that all of the committee and administrative determinations and certifications required by regulations prerequisite to providing assistance of the type indicated above have been made and that evidence thereof is in the docket, and that all requirements of pertinent regulations have been complied with. I hereby approve the above-described assistance in the amount set forth above, and by this document, subject to the availability of funds, the Government agrees to advance such amount to the applicant for the purpose of and subject to the availability prescribed by regulations applicable to this type of assistance.

(Signature of Approving Official)

Typed or Printed Name: _____

Date Approved: _____ Title: _____

38. TO THE APPLICANT: As of this date _____, this is notice that your application for financial assistance from the USDA has been approved, as indicated above, subject to the availability of funds and other conditions required by the USDA. If you have any questions contact the appropriate USDA Servicing Office.

Position 3

USDA
Form RD 400-4
(Rev. 06-10)

ASSURANCE AGREEMENT
(Under Title VI, Civil Rights Act of 1964)

FORM APPROVED
OMB No. 0575-0018
OMB No. 0570-0062

The _____
County of Henderson
(name of recipient)
1 Historic Courthouse Square
Suite 1, Hendersonville, NC 28792

(address)

("Recipient" herein) hereby assures the U. S. Department of Agriculture that Recipient is in compliance with and will continue to comply with Title VI of the Civil Rights Act of 1964 (42 USC 2000d et. seq.), 7 CFR Part 15, and Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, Risk Management Agency, or the Farm Service Agency, (hereafter known as the "Agency") regulations promulgated thereunder, 7 C.F.R. § 1901.202. In accordance with that Act and the regulations referred to above, Recipient agrees that in connection with any program or activity for which Recipient receives Federal financial assistance (as such term is defined in 7 C.F.R. § 15.2) no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination.

1. Recipient agrees that any transfer of any aided facility, other than personal property, by sale, lease or other conveyance of contract, shall be, and shall be made expressly, subject to the obligations of this agreement and transferee's assumption thereof.
2. Recipient shall:
 - (a) Keep such records and submit to the Government such timely, complete, and accurate information as the Government may determine to be necessary to ascertain our/my compliance with this agreement and the regulations.
 - (b) Permit access by authorized employees of the Agency or the U.S. Department of Agriculture during normal business hours to such books, records, accounts and other sources of information and its facilities as may be pertinent to ascertaining such compliance.
 - (c) Make available to users, participants, beneficiaries and other interested persons such information regarding the provisions of this agreement and the regulations, and in such manner as the Agency or the U. S. Department of Agriculture finds necessary to inform such persons of the protection assured them against discrimination.
3. The obligations of this agreement shall continue:
 - (a) As to any real property, including any structure, acquired or improved with the aid of the Federal financial assistance, so long as such real property is used for the purpose for which the Federal financial assistance is made or for another purpose which affords similar services or benefits, or for as long as the Recipient retains ownership or possession of the property, whichever is longer.
 - (b) As to any personal property acquired or improved with the aid of the Federal financial assistance, so long as Recipient retains ownership or possession of the property.
 - (c) As to any other aided facility or activity, until the last advance of funds under the loan or grant has been made.
4. Upon any breach or violation this agreement the Government may, at its option:
 - (a) Terminate or refuse to render or continue financial assistance for the aid of the property, facility, project, service or activity.
 - (b) Enforce this agreement by suit for specific performance or by any other available remedy under the laws of the United States or the State in which the breach or violation occurs.

Rights and remedies provided for under this agreement shall be cumulative.

In witness whereof, _____ the County of Henderson _____ on this
(name of recipient)

date has caused this agreement to be executed by its duly authorized officers and its seal affixed hereto, or, if a natural person, has hereunto executed this agreement.

✓
(SEAL)

Recipient

08-04-2014
Date

Charles D. Messer, Chairman of the Board

Title

Attest: ✓
Teresa Wilson, Clerk _____
Title

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0570-0018 and 0570-0062. The time required to complete this information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

U.S. DEPARTMENT OF AGRICULTURE

Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 7 CFR Part 3017, Section 3017.510, Participants' responsibilities. The regulations were published as Part IV of the January 30, 1989, Federal Register (pages 4722-4733). Copies of the regulations may be obtained by contacting the Department of Agriculture agency offering the proposed covered transaction.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

- (1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
(b) have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
(c) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
(d) have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Henderson County
Organization Name

Old Fairgrounds Grading Project
PR/Award Number or Project Name

Charles D. Messer, Chairman
Name(s) and Title(s) of Authorized Representative(s)

Board of Commissioners

Signature(s)

08-04-2014
Date

Instructions for Certification

1. By signing and submitting this form, the prospective primary participant is providing the certification set out on the reverse side in accordance with these instructions.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out on this form. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this form that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

U.S. DEPARTMENT OF AGRICULTURE

CERTIFICATION REGARDING
DRUG-FREE WORKPLACE REQUIREMENTS (GRANTS)
ALTERNATIVE I - FOR GRANTEEES OTHER THAN INDIVIDUALS

This certification is required by the regulations implementing Section 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D: 41 U.S.C.701 et seq.), 7 CFR Part 3017. Subpart F, Section 3017.600, Purpose. The January 13, 1989, regulations were amended and published as Part 11 of the May 25, 1990 Federal Register (pages 21681-21691). Copies of the regulations may be obtained by contacting the Department of Agriculture agency offering the grant.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON PAGE 3)

Alternative I

A. The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about -

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will -

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction.

Employers of convicted employees must provide notice, including position

title, to every grant officer on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted -

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or, local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, State, zip code)

Old Henderson County Fairgrounds
James Street
East Flat Rock, NC

Check If there are workplaces on file that are not identified here.

Henderson County

Organization Name

Charles D. Messer, Chairman of the Board of Commissioners

Name and Title of Authorized Representative

✓
Signature

Old Fairgrounds Grading Project

Award Number or Project Name

8/4/2014

Date

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this form, the grantee is providing the certification set out on pages 1 and 2.
2. The certification set out on pages 1 and 2 is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.
3. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace - requirements.
4. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).
5. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s). If it previously identified the workplaces in question (see paragraph three).
6. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or States criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) all "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g. volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces)

ACH VENDOR/MISCELLANEOUS PAYMENT ENROLLMENT FORM

OMB No. 1510-0056
Expiration Date 07/31/09

This form is used for Automated Clearing House (ACH) payments with an addendum record that contains payment-related information processed through the Vendor Express Program. Recipients of these payments should bring this information to the attention of their financial institution when presenting this form for completion.

PRIVACY ACT STATEMENT

The following information is provided to comply with the Privacy Act of 1974 (P.L. 93-579). All information collected on this form is required under the provisions of 31 U.S.C. 3322 and 31 CFR 210. This information will be used by the Treasury Department to transmit payment data, by electronic means to vendor's financial institution. Failure to provide the requested information may delay or prevent the receipt of payments through the Automated Clearing House Payment System.

AGENCY INFORMATION

FEDERAL PROGRAM AGENCY

USDA - Rural Development

AGENCY IDENTIFIER:

USDA

AGENCY LOCATION CODE (ALC):

Asheville

ACH FORMAT:

CCD+

CTX

ADDRESS:

84 Coxe Ave, Suite 1E, Asheville, NC 28801

CONTACT PERSON NAME:

Pamela H Hysong, Area Director

TELEPHONE NUMBER:

(828-254-0916 Ext 5

ADDITIONAL INFORMATION:

PAYEE/COMPANY INFORMATION

NAME:

SSN NO. OR TAXPAYER ID NO.

ADDRESS:

CONTACT PERSON NAME:

TELEPHONE NUMBER:

()

FINANCIAL INSTITUTION INFORMATION

NAME:

ADDRESS:

ACH COORDINATOR NAME:

TELEPHONE NUMBER:

()

NINE-DIGIT ROUTING TRANSIT NUMBER:

DEPOSITOR ACCOUNT TITLE:

DEPOSITOR ACCOUNT NUMBER:

LOCKBOX NUMBER:

TYPE OF ACCOUNT:

CHECKING

SAVINGS

LOCKBOX

SIGNATURE AND TITLE OF AUTHORIZED OFFICIAL:
(Could be the same as ACH Coordinator)

TELEPHONE NUMBER:

()

Instructions for Completing SF 3881 Form

1. Agency information Section - Federal agency prints or types the name and address of the Federal program agency originating the vendor/miscellaneous payment, agency identifier, agency location code, contact person name and telephone number of the agency. Also, the appropriate box for ACH format is checked.
2. Payee/Company Information Section - Payee prints or types the name of the payee/company and address that will receive ACH vendor/miscellaneous payments, social security or taxpayer ID number, and contact person name and telephone number of the payee/company. Payee also verifies depositor account number, account title, and type of account entered by your financial institution in the Financial Institution Information Section.
3. Financial Institution Information Section - Financial institution prints or types the name and address of the payee/company's financial institution who will receive the ACH payment, ACH coordinator name and telephone number, nine-digit routing transit number, depositor (payee/company) account title and account number. Also, the box for type of account is checked, and the signature, title, and telephone number of the appropriate financial institution official are included.

Burden Estimate Statement

The estimated average burden associated with this collection of information is 15 minutes per respondent or recordkeeper, depending on individual circumstances. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Financial Management Service, Facilities Management Division, Property and Supply Branch, Room B-101, 3700 East-West Highway, Hyattsville, MD 20782 and the Office of Management and Budget, Paperwork Reduction Project (1510-0056), Washington, DC 20503.

May 6, 2014

The Honorable Pat McCrory
Governor of North Carolina
Office of the Governor
20301 Mail Service Center
Raleigh, North Carolina 27699-0301

Re: Fairgrounds Site Development and
Grading (NC-17721)

Dear Governor McCrory:

Enclosed is a copy of the Appalachian Regional Commission's approval of a grant for the referenced project dated May 2, 2014.

Appalachian Regional Commission funds in the amount of \$175,000 have been made available to the Administrator, Utilities Program, U.S. Department of Agriculture.

A copy of the approval is enclosed.

Sincerely yours,

CHARLES S. HOWARD
Interim Executive Director

Enclosure

cc: State Alternate
Olivia Collier ✓
Julie Lawhorn
Files



APPALACHIAN
REGIONAL
COMMISSION

A Proud Past,
A New Vision

Notice to Obligate

TO: John Padalino U.S. Department of Agriculture, Rural Development Utilities Program South Building, Room 5135-S 14th & Independence Avenue, SW Washington, DC 20250 Attn: Cheryl Francis	CC: Emina Brannum U.S. Department of Agriculture, Rural Development Financial Accounting Branch Bldg. 104 FC-361 4300 Goodfellow Blvd. St. Louis, MO 63120
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Pursuant to the Appalachian Regional Development Act of 1965, as amended, the Appalachian Regional Commission has approved the referenced project under appropriation 46X0200. Rural Development has agreed to obligate and administer the grant under the Memorandum of Agreement between ARC and USDA.

ARC Project Number: NC-17721
Project Title: Fairgrounds Site Development and Grading
Grantee: Henderson County
Approved Funding:

ARC	\$175,000	70 %
Local	\$75,000	30 %
Total Project Cost		\$250,000 100 %

Authorized USDA Administrative Charge: \$5,750

Approved:

Earl Gohl Jr.
Federal Co-Chair

RECEIVED
2
MAY 02 2014

BY: _____

Date



**APPALACHIAN
REGIONAL
COMMISSION**

*A Proud Past,
A New Vision*

To: Earl F. Gohl, Federal Co-Chair
Subject: Fairgrounds Site Development and Grading
 NC-17721-214-14
Grantee: Henderson County
 Hendersonville, NC
County: Transitional: Henderson

Basic

Agency: Rural Development

Goal: ARC Goal 3, Objective 2. State Strategy 3.2.2: Assist in efforts to leverage additional funds that support development of needed infrastructure.

Purpose: To grade and conduct site work on an industrial property for the purpose of supporting up to two businesses

Funding:	ARC (AD)	\$175,000	70%
	Local	\$75,000	30%
	Total	\$250,000	100%

This approval will require the use of the Commission's Discretionary Authority to provide 70% grant funding. Local - Henderson Co.: \$75,000

Description:

The proposed project will allow Henderson County to complete site development and rough grading improvements for a 17.2 acre tract to make the property marketable as an industrial site. The grading effort will result in two distinct building pads. Henderson County owns the property, located in East Flat Rock, an unincorporated, economically distressed area of Henderson County. All necessary utilities are available at the site and it is located in close proximity to Interstate 26, the Asheville Regional Airport, and rail infrastructure.

Rationale/Benefits:

The grading effort will reduce the time that a prospective client would need to begin construction. The site has capacity to support one to two new businesses and create up to 100 new jobs. The Henderson County Partnership for Economic Development and other

NC-17721-214-14

regional economic development partners are actively marketing the site as an ideal industrial property with multiple transportation access systems and full utility connections. The region has recently attracted national corporations to locate east-coast facilities nearby in part due to the area's natural environment and quality of life. However, the mountainous terrain and associated infrastructure construction costs are barriers to locate, secure, and develop viable industrial sites in western NC. After site development and grading, private sources will contribute to further development of the site. The property could be fully occupied within one year following the completion of the proposed improvements.

The project will also support the county's efforts to remove the property from the NC Department of Environment and Natural Resources (NCDENR) Inactive Hazardous Waste Site Priority List. The property was previously used as a fire prevention training site. As a result the site improvements, the county will re-purpose an abandoned site into a revenue-producing property.

As this project is located in a distressed area of a transitional county and is a special development opportunity, the county has requested discretionary authority to reduce the non-ARC match rate to 30 percent.

Performance Measure (Outputs):

Expected performance measures include the following outputs: 17.2 acres graded to become 'pad-ready.'

Performance Measure (Outcomes):

As a speculative building site there are no formal job creation commitments, however, expected outcomes include 102 jobs created.

This project will have no impact on distressed areas. The project is consistent with the ARC Act and Code and is recommended for funding.

RECOMMENDED:



Charles S. Howard
Interim Executive Director

**UNITED STATES DEPARTMENT OF AGRICULTURE
Rural Utilities Service**

BULLETIN 1780-32

SUBJECT: Memorandum of Agreement with Appalachian Regional Commission

TO: State Directors, Rural Development

ATTN.: Rural Utilities Program Directors

EFFECTIVE DATE OF MEMORANDUM OF AGREEMENT: August 24, 1998

EFFECTIVE DATE OF BULLETIN: Date of approval of bulletin.

EXPIRATION DATE: Four years from effective date.

OFFICE OF PRIMARY INTEREST: Assistant Administrator,
Water and Environmental Programs

AVAILABILITY: This bulletin is available on the Rural Utilities Service Internet at
<http://www.usda.gov/rus/water/regs.htm>.

PURPOSE: This RUS bulletin provides the Memorandum of Agreement between the Federal Co-Chairman of the Appalachian Regional Commission and the Under Secretary of Rural Development.



Gary J. Morgan
Acting Assistant Administrator
Water and Environmental Programs

9-5-2000

Date

TABLE OF CONTENTS

1 Purpose

2 Agreement

Exhibit

Exhibit A Memorandum of Agreement

1 Purpose

The purpose of this bulletin is to provide the Memorandum of Agreement between the Appalachian Regional Commission and the Rural Utilities Service.

2 Agreement

The Memorandum of Agreement can be found as Exhibit A to this bulletin.

MEMORANDUM OF AGREEMENT

Between

The Federal Co-Chairman of the Appalachian Regional Commission

and the

Under Secretary of Rural Development
United States Department of Agriculture

1. The Federal Co-Chairman of the Appalachian Regional Commission (hereinafter Commission) and the Under Secretary of Rural Development of the Department of Agriculture (USDA), on behalf of the Administrators of Rural Utilities Service, Rural Housing Service and Rural Business-Cooperative Service (hereinafter the Services), make this agreement in furtherance of the Appalachian Regional Development Act of 1965, as amended (hereinafter the Appalachian Act or ARDA).

2. The Appalachian Act authorizes economic development programs and projects to assist the Appalachian Region to meet its special problems. Section 214 of the ARDA provides authority for grants of Federal financial assistance under the Appalachian Act to supplement grant assistance under other Federal grant-in-aid programs. This assistance can be of two types:

(i). to supplement Federal grants by providing Appalachian Act funds to add on to other Federal grants thereby increasing the Federal contribution above the percentage of Federal share authorized for such grant under the basic program; or

(ii). where sufficient funds are not available under a qualifying Federal grant program, to provide ARDA funds to be used for all or part of the basic grant of Federal financial assistance under such program.

In either case, the total Federal contribution for projects assisted under Section 214 is limited to eighty (80) percent of total project costs.

3. Accordingly, ARC will approve grant assistance pursuant to the general provisions of this agreement and the provisions in Sections 214, 223 and 303 of the Appalachian Act and will make the funds therefor available to the Services, and the Services will award, administer and report to ARC on these grants.

4. The Federal Co-Chairman, subject to such conditions and limitations as he may prescribe, will from time to time make available to the Services funds appropriated to the Commission, to be used to carry out programs and projects pursuant to Section 223 of the ARDA and for the administrative expenses incident thereto.

5. The Commission will inform the Services in writing of each ARC project to be assisted; the amount approved for each; the costs and funding plan on which it premised its approval; and any specific terms, conditions, and limitations thereon not otherwise provided for in this agreement.

6. The Services will inform the Commission promptly of any change in such project costs or funding plan, and the Commission may, as a result, approve an appropriate increase or decrease in the amount of funds available for such project.

7. The Commission may revoke or revise its approval of any program or project if the work intended to be undertaken is not started or placed under contract by the Services within 18 months after the date of the Services' grant agreement or contract.
8. The Services will incorporate in each agreement involving ARC funds appropriate provisions to insure compliance with the ARDA and other applicable Federal laws.
9. The Services will furnish to the Commission (a) a copy of the executed grant agreement, and amendments thereto, for each project involving transferred funds; (b) copies of such information, data, documents, or other materials pertaining to projects as the Commission may require; (c) a final report on the costs of each program or project, in sufficient detail to permit a reasonable review of the expenditures; and (d) such progress and financial reports as may be necessary or required by law or regulation.
10. The parties to this Memorandum of Agreement will follow the implementing procedures [attached] for all administrative actions taken pursuant to this Agreement.
11. Under this Agreement, the Services will be paid a fee by the Appalachian Regional Commission for the administration of projects which do not include any Agriculture/Rural Development funds. The amount of the fee and interval of payment will be determined subsequently by the parties to this Agreement and be incorporated into the implementing procedures attachment.

 / S /
JESSE L. WHITE, JR.
Federal Co-Chairman

 / S /
JILL LONG THOMPSON
Under Secretary

Aug. 6, 1998
Date

Aug. 6, 1998
Date