



10/04/2021

TO: Mr. Todd McNeill, Board Chairman
Ashe County
150 Government Circle, Suite 2500
Jefferson, NC 28650

RE: Ashe County Industrial Park
Appalachian Regional Commission

Dear Chairman McNeill,

This letter establishes conditions which must be understood and agreed to by you before further consideration may be given to the application.

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 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 an Appalachian Regional Commission grant or as a representation as to the availability of funds. The docket may be completed based upon an Appalachian Regional Commission grant not to exceed \$300,000.00. The remaining \$1,190,084.00 will come from Ashe County, REDLEG and Golden Leaf for a total project cost of \$1,490,084.00.

The grant will be considered approved on the date a signed copy of Form RD 1940-1, "Request for Obligation of Funds," is mailed to you.

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

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

PROCUREMENT, BIDDING, AND CONSTRUCTION

Procurement and bidding must be accomplished in accordance with the requirements of RD Instruction 1942-A, 1942.18(k). Final plans, specifications, and contract documents will be prepared in a manner that meets all state requirements as well as those of Rural Development. All construction should also meet the

Rural Development
160 Zillicoa, Ste. 2, Asheville, NC 28801
Phone: 828-254-0916 Ext. 5, Fax: 844-325-6823

USDA is an equal opportunity provider, employer, and lender.

requirements of the American Disabilities Act (ADA). The construction plan should include a method of inspection that is acceptable to Rural Development. Rural Development's approval and concurrence must be obtained for all contracts, agreements, and plans and specifications.

DAVIS-BACON ACT REQUIREMENTS

All construction contracts for project work will contain binding provisions for paying the prevailing wages as determined by the Secretary of Labor in accordance with the Davis-Bacon Act.

MITIGATION MEASURES

Any excavation by the contractor that uncovers a historical or archaeological artifact or human remains shall be immediately reported to the owner and a representative of the Agency. Construction shall be temporarily halted pending the notification process and further directions issued by Agency after consultation with the State Historic Preservation Officer (SHPO). During the ground disturbance phase of the project, the Catawba Indian Nation, Eastern Band of Cherokee Indians and Muscogee (Creek) Nation must be notified if Native American artifacts and /or human remains are located.

EQUAL OPPORTUNITY AND ASSURANCE AGREEMENTS

The applicant must formerly adopt Form RD 400-1, Equal Opportunity Agreement, and Form RD 400-4, Assurance Agreement, at a properly called meeting of the governing body. Adoption of these documents should be made a part of the official minutes of the meeting. A certified copy of the minutes is to be delivered to Rural Development.

APPLICANT CONTRIBUTION/OTHER FUNDS

Any difference needed between the Appalachian Regional Commission grant and all other grant funds will be the responsibility of the Applicant including any required legal expenses.

Prior to grant approval, the Applicant must provide evidence that any other funds needed in addition to the Appalachian Regional Commission grant are available. Prior to grant approval, the Applicant must provide evidence that any other funds needed in addition to the Rural Development loan are available.

DISBURSEMENT OF FUNDS

The funds contributed by the Applicant will be the first funds disbursed. After providing for all authorized costs, any remaining project funds will be considered Appalachian Regional Commission grant funds and refunded to ARC.

ACCOUNTING, AUDITS, AND REPORTS

The Applicant's accounting systems, audits and management reports will be established and maintained as required by North Carolina General Statutes, RD Instructions 1942-A, Section 1942.17 (q), and 2 CFR Part 200, Subpart F. The audit will be prepared in accordance with 2 CFR Part 200, Subpart F with a copy furnished to Rural Development.

INSURANCE AND BONDING

Insurance and bonding should be obtained as required by NC General Statutes and Rural Development Instructions 1942-A, Subsection 1942.17(j)(3). Evidence of required coverage must be provided to Rural Development prior to grant closing. Evidence that coverage is being maintained must be provided annually thereafter.

Corporate Liability and Property Damage Insurance: The Applicant will provide public liability, and property damage insurance in an amount to adequately protect the applicant from civil action arising from the function of the applicant relative to the project.

Real Property Insurance: The applicant will provide fire and extended coverage in an amount equal to the replacement value of the building and improvements.

Workman's Compensation Insurance: The applicant will provide adequate Workman's Compensation Insurance if applicable.

ORGANIZATION

The applicant must provide certification concerning its organization, in accordance with Rural Development Instructions 1942-A, Subsection 1942.17(k).

APPLICANT CERTIFICATIONS

Form AD-1047, Certification Regarding Debarment, Suspension, and other Responsibility Matters - Primary Covered Transactions, must be executed by the applicant prior to loan approval.

Form AD-1048, Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier covered transactions must be executed by the Contractor(s), supplier(s), and/or dealers prior to any purchase that exceeds \$25,000.00.

Form RD 1910-11, Applicant Certification/Federal Collection Policies for Consumer or Commercial Debts must be executed by the applicant prior to loan closing.

DRUG FREE WORKPLACE CERTIFICATION

Prior to grant approval, the applicant must execute Form AD-1049, Certification Regarding Drug-Free Workplace Requirement.

GRANT ADMINISTRATION AND MEMORANDUM OF AGREEMENT

The Appalachian Regional Commission grant will be administered in accordance with the Memorandum of Agreement between Appalachian Regional Commission and Rural Development as signed August 24, 1998 by the Administrator. Rural Development is responsible for administering the Appalachian Regional Commission grant under RUS Instruction.

OTHER CONDITIONS

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

All requirements of the following must be met:

- a. Compliance with special laws and regulations.
- b. State Pollution Control or Environmental Protection Agency Standards.
- c. Consistency with other development plans.
- d. Civil Rights Act of 1964.
- e. Title IX of the Education Amendment of 1972.
- f. Section 504 of the Rehabilitation Act of 1973.
- g. Age Discrimination Act of 1975.
- h. 2 CFR Part 200

Please let me know if you have any questions.

Sincerely,

Michael K. Ledford

Michael K. Ledford
Area Specialist

RESOLUTION OF ASHE COUNTY Jefferson, NC

BE IT RESOLVED:

That the Ashe County Board of Commissioners do hereby accept the conditions set forth in the Letter of Conditions dated October 04, 2021.

That the Board Chair and Clerk be authorized to execute all forms necessary to obtain a grant from the Appalachian Regional Commission to be administered by the USDA Rural Development for improvements to the Ashe County Industrial Park site, but not limited to the following forms:

- Form RD 1942-46, Letter of Intent to Meet Conditions
- Form RD 1940-1, Request for Obligation of Funds
- Form RD 400-1, Equal Opportunity Agreement
- Form RD 400-4, Assurance Agreement
- Form AD-1047, Certification Regarding Debarment, Suspension, and other Responsibility Matters
- Form AD-1049, Certification Regarding Drug-Free Workplace Requirement.
- Form RD 1910-11, Applicant Certification/Federal Collection Policies for Consumer or Commercial Debts

That this resolution become part of the official minutes of the Board meeting held on October 04, 2021

Adopted this 4th day of October 2021.

Todd McNeill, Chairman

ATTEST:

Ashley Honeycutt, Clerk to the Board

Motion made by _____ and seconded by _____ to
adopt the foregoing resolution. Motion passing _____ to _____.
(FOR) (AGAINST)