State of North Carolina

Minutes

County of Madison

The Madison County Board of Commissioners met in special session on Tuesday, August 27, 2024, at 6:00 p.m. at the North Carolina Cooperative Extension-Madison County Center located at 258 Carolina Lane, Marshall, North Carolina.

In attendance were Chairman Matt Wechtel, Vice-Chairman Michael Garrison, Commissioner Bill Briggs, Commissioner Jeremy Hensley, Commissioner Alan Wyatt, County Manager Rod Honeycutt, County Attorney Donny Laws, and Clerk Mandy Bradley.

The meeting was called to order at 6:01 p.m. by Chairman Wechtel.

Item 1: Highway 213 Water Interconnector Update

Item continued until the end of the meeting.

Item 2: Land of Sky RPO Letter of Support – USDOT Charging and Fueling Infrastructure Community Grant

Chairman Wechtel presented and discussed a proposed letter in support of Land of Sky and the USDOT Charging and Fueling Infrastructure Community Grant.

Discussion was had by the Board.

Upon motion by Chairman Wechtel and second by Vice-Chairman Garrison with additional discussion being had by the Board, the Board voted unanimously to approve. (Attachment 2.1).

Item 3: Transfer Station Floor Resurfacing Agreement

County Manager Rod Honeycutt presented and discussed the transfer station floor resurfacing agreement on behalf of the Solid Waste Department.

Discussion was had and counsel was provided by County Attorney Laws with recommendations for the agreement as follows:

- Inclusion of language in the dispute resolution to allow for litigation in Madison County.
- Inclusion of the County's standard payment and performance bond document with a modification in terms to allow for the use.
- Addition of the County's standard contract addendum.

Discussion was had by the Board, Solid Waste Director Sam Lunsford, and County Manager Rod Honeycutt with additional counsel being provided by County Attorney Laws.

Upon motion by Commissioner Wyatt and second by Chairman Wechtel, the Board voted unanimously to approve. (Attachment 3.1)

Item 4: Library Services and Technology Act Scholarship Grant Agreement

County Manager Rod Honeycutt presented and discussed the Library Services and Technology Act Scholarship Grant Agreement with the Board and discussed the County's grant funding approval and award acceptance process.

Discussion was had.

Upon motion by Commissioner Wyatt and second by Commissioner Hensley, the Board voted unanimously to approve.

Item 1: Highway 213 Water Interconnector Update (cont.)

Ross Young, Project Manager provided an update to the Board regarding the Highway 213 water interconnector with the Towns of Marshall and Mars Hill funded by S.L. 2021-180 allocations awarded to the County. Information discussed included plans, layout, timeline, components, and construction process.

Discussion was had by the Board and Mr. Young with counsel being provided by County Attorney Laws.

Item 5: Personnel, Item 6: Legal Advice Regarding Zenina Farms Appeal of Planning and Zoning Administrative Decision

Upon motion by Commissioner Hensley and second by Commissioner Wyatt, the Board voted unanimously to enter into closed session for personnel and attorney-client privilege pursuant to N.C.G.S. 143-318.11 (a)(3) and N.C.G.S. 143-318.11 (a)(5) at 6:48 p.m.

Upon motion by Commissioner Hensley and second by Commissioner Wyatt, the Board voted unanimously to return to open session at 9:03 p.m.

County Manager Rod Honeycutt presented the request to increase Grant Coordinator, Hannah Shelton's duties and responsibilities to include procurement at a salary increase to $55,000.00. Upon motion by Commissioner Wyatt and second by Commissioner Hensley, the Board voted unanimously to approve.

Item 7: Adjournment

Upon motion by Commissioner Hensley and second by Vice-Chairman Garrison, the Board voted unanimously to adjourn at 9:04 p.m.

This the 27th day of August 2024.

MADISON COUNTY

Matt Wechtel, Chairman
Board of Commissioners

ATTEST:

Mandy Bradley, Clerk

Madison County Administration

PO Box 579
Marshall, NC 28753
(828) 649-2854
www.madisoncountync.org

August 27, 2024

Attachment 2.1

The Honorable Pete Buttigieg
U.S. Secretary of Transportation
United States Department of Transportation
1200 New Jersey Avenue SE
Washington, DC 20590

Dear Secretary Buttigieg,

On behalf of the Madison County Board of Commissioners, I am writing to express the Board's strong support for the Southwestern North Carolina Planning and Economic Development Commission (SWRPO) application for the U.S. Department of Transportation's (USDOT) Charging and Fueling Infrastructure (CFI) Community Grant Program, in partnership with the North Carolina Department of Transportation (NCDOT), Land of Sky Regional Council (LOSRC), Land of Sky Rural Planning Organization (LOSRPO), the Land of Sky Clean Vehicle Coalition (LOSCVC), French Broad River Metropolitan Planning Organization (FBRMPO). This funding is requested to strategically deploy the Electrify Western North Carolina (WNC) Program to fill the electric vehicle (EV) charging infrastructure gap in western North Carolina created by a lack of funding from other federal programs.

Currently, there are only two AFCs (Alternative Fuel Corridors) identified by USDOT that run along the eastern most section of the region causing an EV charging infrastructure gap for EV drivers traveling through WNC. Additionally, because of the lack of identified AFCs, much of the region is not eligible to receive funding under the CFI Corridor Program or Phase One of the North Carolina National Electric Vehicle Infrastructure (NEVI) deployment plan. Due to this lack of investment, the CFI Community Program is needed to implement the Electrify WNC Program and deploy EV chargers across WNC, filling the gap left by the other programs.

This funding is integral to meet future mobility needs and promote competitive economic growth. With the continued adoption rates of EVs, WNC needs this investment to continue to attract visitors and grow the tourism industry, resulting in sustained economic wellness, job opportunities, and increased tax revenue. Additionally, the Electrify WNC Program will benefit the region's disadvantaged populations that currently face higher rates of unemployment, heart disease, and increased educational barriers. The program will reduce GHG emissions, improve the health of residents, and provide opportunities for good paying jobs in skilled professions in the construction and electrical trades.

For these reasons, I strongly encourage you to support the expansion of EV charging infrastructure in WNC and to approve this application for CFI Community Grant funding to implement the Electrify WNC Program.

Respectfully,

Matt Wechtel, Chairman
Madison County Board of Commissioners

Notice of Award

Date: _____

Project: Madison County Transfer Station Floor Rehabilitation	
Owner: Madison County	Owner's Contract No.:
Contract: Transfer Station Floor Rehabilitation	Engineer's Project No.: 23.00706
Bidder: Osborn Contract Services, Inc.	
Bidder's Address: 125 Sunbelt Court	
Greer, South Carolina 29650	

You are notified that your Bid dated July 16, 2024, for the above Contract has been considered. You are the Successful Bidder and are awarded a Contract for Madison County Transfer Station Floor Rehabilitation.

The Contract Price of your Contract is Three Hundred Twenty-Eight Thousand One Hundred Sixty-Five Dollars ($328,165.00).

Three (3) copies of the proposed Contract Documents (except Drawings) accompany this Notice of Award.

You must comply with the following conditions precedent within ten (10) days of the date you receive this Notice of Award.

1. Deliver to the Owner [Three (3)] fully executed counterparts of the Contract Documents.
2. Deliver with the executed Contract Documents the Contract security [Bonds] and other documents as specified.

Failure to comply with these conditions within the time specified will entitle Owner to consider you in default, annul this Notice of Award, and declare your Bid security forfeited.

Within ten days after you comply with the above conditions, Owner will return to you one fully executed counterpart of the Contract Documents.

Madison County
Owner
By: X _____
Authorized Signature

_____
Title

ACCEPTED
Osborn Contract Services, Inc.
Contractor
By: _____
Authorized Signature

_____
Title

Notice to Proceed

Date: _____

Project: Transfer Station Floor Rehabilitation	
Owner: Madison County	Owner's Contract No.:
Contract:	Engineer's Project No.: 23.00706
Contractor: Osborn Contract Services, Inc.	
Contractor's Address: 125 Sunbelt Court	
Greer, South Carolina 29650	

You are notified that the Contract Times under the above Contract will commence to run on _____. On or before the 10th day following this date, you are to commence work and start performing your obligations under the Contract Documents. In accordance with the Agreement, the date of Substantial Completion is _____, and the date of Final Completion is _____.

Osborn Contract Services, Inc.	Madison County
Contractor	Owner
	Given by: (X)
Authorized Signature	Authorized Signature
	Chair
Title	Title
	8/27/24
Date	Date

MODIFIED AGREEMENT
BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

THIS AGREEMENT is by and between Madison County ("Owner") and Osborn Contract Services, Inc. ("Contractor").

Effective Date of Agreement: _____

Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work generally consists of: ***Two phases. Phase 1 will consist of preparation of the 3,600 square foot tipping floor in order to receive and properly bind with a high performance, cementitious topping to be applied in such a manner as to minimize down time for the transfer station. This phase should be accomplished over the course of three (3) days in order to have the County resume operations as quickly as possible. Once the tipping floor has been resurfaced, Phase 2 will include a minor repair to the push wall, milling and overlaying approximately 6,700 square feet of asphalt in the staging area of the transfer station, repairing and replacing approximately 170 square yards of deteriorated asphalt, and pouring approximately 370 square feet of concrete to replace the apron between the station and the staging area.***

ARTICLE 2 – ENGINEER

2.01 The Project has been designed by McGill Associates, P.A. (Engineer), which is to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 3 – CONTRACT TIMES

3.01 *Time of the Essence*

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

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3.02 *Dates for Substantial Completion and Final Payment*

A. The Work will be substantially completed within 90 calendar days, and completed and ready for final payment in accordance with the Modified General Conditions within 120 calendar days. However, Phase 1 will be substantially completed within a maximum of 5 days in order to minimize impact to the transfer station operations.

3.03 *Liquidated Damages*

A. Contractor and Owner recognize that time is of the essence and that Owner will suffer financial loss if the Work is not completed within the times specified in Paragraph 3.02 above especially for Phase 1, plus any extensions thereof allowed in accordance with Article 12 of the Modified General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner **$1,000** for each calendar day that expires after the time specified in Paragraph 3.02 above for Substantial Completion until the Work is substantially complete for Phase 1 due to the additional expense of managing incoming waste during the down time. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Owner **$1,000** for each calendar day that expires after the time specified in Paragraph 3.02 above for completion and readiness for final payment until the Work is completed and ready for final payment.

ARTICLE 4 – CONTRACT PRICE

4.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount equal to the sum of the amounts determined pursuant to Paragraphs 4.01.A, and 4.01.B below:

A. For lump sum work an amount equal to the percentage completed of specific items of work provided by the Contractor as a schedule of values for the Lump Sum work.

B. For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the actual quantity of that item. The unit price for each item is as supplied in the Bid for the project.

ARTICLE 5 – PAYMENT PROCEDURES

5.01 *Submittal and Processing of Payments*

A. Contractor shall submit Applications for Payment in accordance with Article 14 of the Modified General Conditions. Applications for Payment will be processed by Engineer as provided in the Modified General Conditions.

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5.02 *Progress Payments; Retainage*

A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 25th day of each month during performance of the Work as provided in Paragraph 5.02.A.1 below. All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of the Modified General Conditions (and in the case of Unit Price Work based on the number of units completed).

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or Owner may withhold, including but not limited to liquidated damages, in accordance with Paragraph 14.02 of the Modified General Conditions.

a. 95 percent of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and

B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 97.5 percent of the Work completed, less such amounts as Engineer shall determine in accordance with Paragraph 14.02.B.5 of the Modified General Conditions and less 250 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

5.03 *Final Payment*

A. Upon final completion and acceptance of the Work in accordance with Paragraph 14.07 of the Modified General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 14.07.

ARTICLE 6 – CONTRACTOR'S REPRESENTATIONS

6.01 In order to induce Owner to enter into this Agreement, Contractor makes the following representations:

A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.

B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.

D. Contractor has reviewed all General and Supplementary Conditions applicable to the Work.

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E. Contractor has considered the information known to Contractor; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Contract Documents; and (3) Contractor's safety precautions and programs.

F. Based on the information and observations referred to in Paragraph 6.01.E above, Contractor does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.

H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.

I. The Contract Documents are sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 7 – MISCELLANEOUS

7.01 *Terms*

A. Terms used in this Agreement will have the meanings stated in the Modified General Conditions and the Supplementary Conditions.

7.02 *Assignment of Contract*

A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

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7.03 *Successors and Assigns*

A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

7.04 *Severability*

A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

7.05 *Contractor's Certifications*

A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 7.05:

1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;

2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;

3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and

4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

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ARTICLE 8 – CONTRACT DOCUMENTS

8.01 Contents

A. The Contract Documents consist of the following:

1. This Agreement.
2. Performance bond.
3. Payment bond.
4. Other bonds.
5. Notice of Award.
6. Modified General Conditions.
7. Supplementary Conditions.
8. Specifications as identified in the table of contents of the bound Project Manual.
9. Drawings consisting of 6 sheets with each sheet bearing the following general title: Madison County Transfer Station Floor Rehabilitation
10. Addenda.
11. Exhibits to this Agreement (enumerated as follows):
    a. Contractor's Bid.
12. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
    a. Notice to Proceed.
    b. Work Change Directives.
    c. Change Orders.

B. The documents listed in Paragraph 8.01.A are attached to this Agreement (except as expressly noted otherwise above).

C. There are no Contract Documents other than those listed above in this Article 8.

D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the Modified General Conditions.

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IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement. Counterparts have been delivered to Owner and Contractor. All portions of the Contract Documents have been signed or have been identified by Owner and Contractor or on their behalf.

OWNER: Madison County

By: _____

Title: _____

Attest: _____

Title: _____

Address for giving notices:

107 Ellzabeth Lane

Marshall, North Carolina 28753

Pre-Audit Statement: This instrument has been preaudited in the manner required by the Local Budget and Fiscal Control Act as amended.

By: _____

Title: _____

Date: _____

Approved as to Form:

By: _____

Title: _____

Date: _____

CONTRACTOR Osborn Contract Services, Inc.

By: _____

Title: _____

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: _____

Title: _____

Address for giving notices:

125 Sunbelt Court

Greer, South Carolina 29650

License No.: 112912

Agent for service of process:

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Notice of Award

Date: 9.26.24

Project: Madison County Transfer Station Floor Rehabilitation	
Owner: Madison County	Owner's Contract No.:
Contract: Transfer Station Floor Rehabilitation	Engineer's Project No.: 23.00706
Bidder: Osborn Contract Services, Inc.	
Bidder's Address: 125 Sunbelt Court	
Greer, South Carolina 29650	

You are notified that your Bid dated July 16, 2024, for the above Contract has been considered. You are the Successful Bidder and are awarded a Contract for Madison County Transfer Station Floor Rehabilitation.

The Contract Price of your Contract is Three Hundred Twenty-Eight Thousand One Hundred Sixty-Five Dollars ($328,165.00).

Three (3) copies of the proposed Contract Documents (except Drawings) accompany this Notice of Award.

You must comply with the following conditions precedent within ten (10) days of the date you receive this Notice of Award.

1. Deliver to the Owner [Three (3)] fully executed counterparts of the Contract Documents.
2. Deliver with the executed Contract Documents the Contract security [Bonds] and other documents as specified.

Failure to comply with these conditions within the time specified will entitle Owner to consider you in default, annul this Notice of Award, and declare your Bid security forfeited.

Within ten days after you comply with the above conditions, Owner will return to you one fully executed counterpart of the Contract Documents.

Madison County
Owner
By: _____
Authorized Signature

Title

ACCEPTED

Osborn Contract Services, Inc.
Contractor
By: _____
Authorized Signature
President
Title

Notice to Proceed

Date: 8.26.24

Project: Transfer Station Floor Rehabilitation	
Owner: Madison County	Owner's Contract No.:
Contract: Transfer Station Floor Rehabilitation	Engineer's Project No.: 23.00706
Contractor: Osborn Contract Services, Inc.	
Contractor's Address: 125 Sunbelt Court Greer, South Carolina 29650	

You are notified that the Contract Times under the above Contract will commence to run on August 27, 2024. On or before the 10th day following this date, you are to commence work and start performing your obligations under the Contract Documents. In accordance with the Agreement, the date of Substantial Completion is November 25, 2024, and the date of Final Completion is December 25, 2024.

Osborn Contract Services, Inc.	Madison County
Contractor	Owner
Authorized Signature	Given by: Authorized Signature
President Title	Title
8.26.24 Date	Date

CONTRACT ADDENDUM
FOR CONTRACTS WITH ANY DEPARTMENT OF
MADISON COUNTY GOVERNMENT

CONTRACTOR: _____

COUNTY DEPARTMENT: _____

SUBJECT OF CONTRACT: _____

DATE/TERM OF CONTRACT: _____

Not withstanding any provision contained in the above-referenced Contract or Agreement which may be to the contrary, the following provisions are incorporated and shall apply, supplant and control:

Non-appropriation clause. Contractor acknowledges that Madison County is a governmental entity, and the contract validity is based upon the availability of public funding under the authority of its statutory mandate. In the event that public funds are unavailable and not appropriated for the performance of Madison County's obligation under this contract, then this contract shall automatically expire without penalty to Madison County thirty (30) days after written notice to Contractor of the unavailability and non-appropriation of public funds. It is expressly agreed that Madison County shall not activate this non-appropriation provision for its convenience or to circumvent the requirements of this contract, but only as an emergency fiscal measure during a substantial fiscal crisis, which affects generally its governmental operations. In the event of a change in the Madison County's statutory authority, mandate and mandated functions, by state and federal legislative or regulatory action, which adversely affects Madison County's authority to continue its obligations under this contract, then this contract shall automatically terminate without penalty to Madison County upon written notice to Contractor of such limitation or change in Madison County's legal authority.

Dispute Resolution/Jurisdiction/Venue. Any dispute arising under this Agreement may be settled by mediation in the State of North Carolina in accord with such procedures as may be available to units of local government under state law. No other dispute resolution procedures shall apply. Jurisdiction for any legal proceedings concerning this contract or agreement shall be state courts in the State of North Carolina. Venue for such proceedings shall be Madison County.

No pledge of taxing authority. No deficiency judgment may be rendered against Madison County or any agency of Madison County in any action for breach of a contractual obligation under this contract. The taxing power of the Madison County is not pledged directly or indirectly to secure any monies due under this contract.

No waiver of governmental immunity; Violation of law. Except for waiver of governmental immunity resulting from the execution of a valid contract, Madison County makes no other

waiver of governmental immunity. If any provision of the Contract or Agreement is in violation of any legal, statutory or state constitutional prohibition, then such provision(s) shall be unenforceable against Madison County.

Conflict of interest. If this is a contract for design, engineering, contract administration or similar services, the Contractor will not enter into contracts or agreements with third parties that may present a potential for conflict of interest between Madison County and third parties regarding the subject matter of this Contract or Agreement.

Acceleration Clause. To the extent that any provision of the contract contains any acceleration of clause provision, said clause is deemed void and unenforceable.

Assignment of Rights. Neither party shall sign its rights under this contract without the express written agreement of the other party.

Indemnity, Hold Harmless, Assumption of Risk. To the extent that any provision of the Contract allows for any limitations on the Contractors liability, any waiver in the limits of the County's liability, and/or any hold harmless or indemnification clauses in favor of the Contractor, those provisions are only effective and enforceable in the manner and to the extent provided by NC Law.

Default and Remedies. To the extent that any provision of the Contract addresses default and remedies, then those provisions are stricken in their entirety and are replaced with the following: "County and Contractor, in the event of default, shall have as remedies only those remedies provided by law relative to units of local government in the state of NC."

Compliance with E-Verify requirements. As a condition of payment for services rendered under this agreement, Contractor shall comply with the requirements of Article 2 of Chapter 64 of the General Statutes. Further, if Contractor provides the services to the County utilizing a subcontractor, Contractor shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the General Statutes as well. Contractor shall verify, by affidavit, compliance of the terms of this section upon request by the County.

For the CONTRACTOR: _____ Title: _____

For MADISON COUNTY _____ Title: _____

This instrument has been preaudited in the manner required by the local government budget and fiscal control act.

By: _____
Madison County Finance Officer

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GRANT AGREEMENT **Attachment 4.1**
LSTA 2024-2025 Scholarship Grant
State Project Code: NC-LSTA-24-070

This is an agreement by and between, Madison County Public Libraries hereinafter referred to as "the Library," and the State Library of North Carolina, Department of Natural and Cultural Resources, hereinafter referred to as the "State Library."

Institution and/or Library Name: Madison County Public Libraries

Mailing address: 1335 N. Main Street

City, State, ZIP: Marshall , NC 28753-6901

Project manager name/title: Shawna Bryce/Kim Bellofatto

Project manager telephone: 828-689-5183/828-649-3741

Project manager email: sbryce@madisoncountync.gov/kbellofatto@madisoncountync.gov

Unique Entity Identifier: YQ96F8BJYTJ9

Federal Employer Identification Number: 56-6000316-E

Indirect cost rate for this award: N/A

Library fiscal year ending date: June 30

Federal Award Identification Information required by 2 CFR 200.332
Federal Award ID number: LS-256834-OLS-24
Federal Award Date: April 18, 2024
Grant Award Period Start and End Date: July 1, 2024 - June 30, 2025
Amount of Federal Funds Obligated by this Action: $3000.00
Federal Award Project Description as required by FFATA: LSTA Grants to States
Contact information for awarding official: Catherine Prince, Federal Programs Consultant, State Library of North Carolina, 4640 Mail Service Center, Raleigh, NC, 27699-4600, 919-814-6796, catherine.prince@dncr.nc.gov.
CFDA Name / Number: LSTA State Grants / 45.310
This award is not R&D.

The State Library has agreed to fund this grant with federal Library Services and Technology Act (LSTA) funds to be disbursed through North Carolina Accounting System accounting fund 46011495410145.

IN CONSIDERATION OF RECEIVING THE ABOVE REFERENCED GRANT FUNDING, THE LIBRARY HEREBY AGREES TO:

1. Accept and administer an LSTA grant from the State Library in the amount of $ 3000.00 for costs associated with the project represented in the Library's grant application, grant award letter, and any amendments thereto.

2. Abide by all Grant Provisions as certified in this document and the grant application; including any certifications submitted with this grant agreement such as Children's Internet Protection Act (CIPA) Compliance and Certification Regarding Debarment and Suspension; Lobbying; Federal Debt Status; and Nondiscrimination.

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3. Regularly inform the State Library on the progress of project activities as defined in the grant application.

4. Encumber and expend project funds (grant and matching)
   - only upon or after the effective date of this grant agreement and before its termination;
   - in accordance with the project budget as submitted with the project application, or as modified in the grant award letter, or as amended and approved by the State Library; and
   - in accordance with all applicable local, state and federal laws and regulations.

5. Expend project funds in a manner that ensures free and open competition.

6. Submit grant reimbursement requests with appropriate documentation of eligible project expenditures (grant and matching) as defined in the grant application, at least quarterly, on or before October 15, January 15, and April 15.

7. Submit grant progress reports, briefly describing current and anticipated project expenditures and project activities, as requested by the State Library.

8. Complete all project expenditures (grant and matching) by **June 30, 2025**, or by the termination date of this agreement as amended by mutual consent.

9. On or before **July 15, 2025,** submit a single request for reimbursement.

10. If eligible, the Library and all subgrantees shall: (a) ask the North Carolina Department of Revenue for a refund of all sales and use taxes paid by them in the performance of this Contract, pursuant to N.C.G.S. 105-164.14; and (b) exclude all refundable sales and use taxes from all reportable expenditures before the expenses are entered in their reimbursement reports.

11. Request prior written approval from the State Library for any equipment with a per unit price above $5,000. List this equipment on the State Library Annual Equipment Tracking Survey, provided each January, for the remainder of its useful life. If fair market value at the time of surplus or disposal exceeds $5,000, disposal must be cleared with the State Library.

12. Acknowledge the Institute of Museum and Library Services in all related publications and activities in conjunction with the use of grant funds as follows: "This publication/activity/program/etc. was supported by grant funds from the Institute of Museum and Library Services under the provisions of the federal Library Services and Technology Act (LSTA) as administered by the State Library of North Carolina, a division of the Department of Natural and Cultural Resources (IMLS grant number LS-256834-OLS-24)." Submit a copy of any publications or materials produced under the grant to the State Library.

13. Provide library services resulting from the grant to all members of the community served, in compliance with all Federal statutes relating to non-discrimination on the basis of race, color, national origin, sex, handicap, or age.

14. Request prior written approval from the State Library for any subcontracting or assignment to any subgrantee or assignee. Neither the Library nor any subgrantee or assignee is relieved of the duties and responsibilities of this agreement. Subgrantees and assignees agree to abide by the terms of this agreement and must provide all information necessary for the Library to comply with the terms of this agreement.

15. Only approved, awarded expenditures are allowable; any funds not expended as defined in the grant application will be repurposed by the State Library upon termination of this agreement.

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16. Submit a final report to the State Library by **July 30, 2025**, providing a description of project expenditures, a narrative of project activities, and other elements required by the funder.

17. Certify upon completion of the grant that grant funds were received, used, and expended for the purposes for which they were granted.

18. Complete the Single Audit Certification as directed and maintain adequate financial records to ensure complete reporting, and retain programmatic, financial, and audit records relating to the grant for a minimum of three years from the due date of the final grant report at the end of the Five Year Plan, or until all audit exceptions have been resolved, whichever is longer. Provide access upon request to the Department of Natural and Cultural Resources, Office of the State Auditor, Institute of Museum and Library Services and the Comptroller General or their designees, to all records and documents related to the award, including audit work papers in possession of any auditor of the Library.

19. Ensure that grant funds are audited in compliance with state and federal audit requirements for local governments and public authorities, institutions of higher education, and non-profit organizations, and, as applicable, according to the standards of 2 CFR 200, Subpart F - Audit Requirements, as supplied by the Executive Office of the President, Office of Management and Budget, Washington, DC.

20. Comply with the requirements of North Carolina General Statute 143C-6-23: "State grant funds: administration; oversight and reporting requirements" and the corresponding rules of North Carolina Administrative Code, Title 9, Subchapter 03M, "Uniform Administration of State Grants," including submission of required financial reports within six months (or nine months for $500,000 threshold) of the end of the Library's fiscal year(s) in which grant funds are received.

21. The State Auditor and the using agency's internal auditors shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions in accordance with General Statute 147-64.7 and Session Law 2010-194, Section 21 (i.e., the State Auditors and internal auditors may audit the records of the contractor during and after the term of the contract to verify accounts and data affecting fees or performance).

22. File with the State Library a copy of the Library's **policy addressing conflicts of interest** that may arise involving the Library's management employees and members of its board of directors, commissions, or other governing body. The policy shall address situations in which any of these individuals may directly or indirectly benefit, except as the Library's employees or members of its board, commissions, or other governing body, from the Library's disbursing of grant funds and local matching funds and shall include actions to be taken by the Library or the individual, or both, to avoid conflicts of interest and the appearance of impropriety. (N.C.G.S. 143C-6-23(b)). The policy shall be filed before the State Library may disburse the grant funds, unless the Library is covered by the provisions of N.C.G.S. 160A-479.11 and 14-234.

23. File with the State Library the Library's sworn written statement completed by the Library's board of directors or other governing body stating that, pursuant to N.C.G.S. 143C-6-23(c), the Library does not have any **overdue tax debts**, as defined by N.C.G.S. 105-243.1, at the federal, State, or local level. The policy shall be filed before the State Library may disburse the grant funds, unless the Library is covered by the provisions of G.S. 160A-479.11 and 14-234.

THE STATE LIBRARY AGREES TO:

1. Award LSTA grant funds to the Library in the amount and under the terms and conditions stated above, subject to the availability of funds.

2. Pay LSTA grant funds upon receipt of reimbursement requests for approved, awarded expenditures submitted by the Library. Pay by **June 30, 2025**, all approved requests received on or before **April 15, 2025**, and by **August 31, 2025**, all approved requests received by **July 15, 2025**.

3. Assist the Library as appropriate and necessary with the implementation of this project. Provide monitoring and oversight through a combination of periodic emails, calls, visits, and review of reimbursement requests and reports.

4. Report on this project to the federal funding agency, the Institute of Museum and Library Services, and the North Carolina Office of State Budget and Management in accordance with all applicable federal and state requirements.

THIS AGREEMENT is in effect upon signing by all parties. It may be amended, if necessary, upon the mutual acceptance of a written amendment to this agreement signed and dated by the Library and the State Library. Such amendment(s) shall state any and/or all change(s) to be made. This agreement may be terminated by mutual consent with 60 days' prior written notice or as otherwise provided by law.

Returning signed agreements signifies accepting the grant award; awards not accepted by: September 10, 2024 may be withdrawn.

[*Please sign below.*]

Signed by:
x Kim Bellofatto 8/15/2024
4D8E643200DA4B4...
Signature, Library Director — Date

Kim Bellofatto
Printed Name

x [signature] August 27, 2024
Signature, Local Government or Institutional Representative — Date

~~Rod Honeycutt~~ Matt Wechtel ~~County Manager~~ Chair, BOC
Printed Name — Title

x
Signature, Michelle Underhill, State Librarian — Date

GRANT PROVISIONS

The following state and federal provisions apply to the LSTA grant program. Libraries awarded grants must agree to comply with these provisions.

1. Grant Agreement and Timing of Expenditures

Official notification of the grant award must be received from the State Library and a grant agreement (formal agreement between the grantee and the State Library) signed by both the representatives of the library and the State Librarian *before* any funds may be encumbered or expended for the project.

2. Allowable and Unallowable Costs

Grantees must carry out the grant project according to the approved grant application, and all federal funds must be expended solely for the purpose for which a grant was awarded.

The following costs are unallowable and may not be proposed as grant project costs: bad debts, contingencies, contributions and donations, entertainment, fines and penalties, under recovery of costs under grant agreements (excess costs from one grant agreement are not chargeable to another grant agreement).

3. Legal and Regulatory Compliance

Grantees must expend grant funds in accordance with all applicable local, state, and federal laws and regulations.

4. Budget Revisions and Programmatic Changes

Grantees must not deviate from the approved budget and plan for carrying out the grant project as contained in the approved grant application unless prior approval is obtained from the State Library.

5. Records Retention

Grantees must maintain adequate records to ensure complete reporting, and retain programmatic and financial records relating to the grant for a minimum of three years from the due date of the final grant report at the end of the Five Year Plan, or until all audit exceptions have been resolved, whichever is longer.

6. Free and Open Competition

Purchases made from grant funds must be carried out to ensure free and open competition to the extent possible. Libraries eligible to purchase under state contract may use this option for grant purchases.

7. Debarment & Suspension

Transactions for the purposes of this grant will not knowingly be made with parties who have been debarred or suspended from receiving Federal financial assistance under Federal programs and activities (Debarment and Suspension Certification). See Excluded Parties List System at https://www.sam.gov .

8. Equipment Purchases and Inventory

Equipment with a per unit price above $5,000 requires advance written approval from the State Library. If fair market value at the time of surplus or disposal exceeds $5,000, disposal must be cleared with the State Library.

9. Publicizing & Acknowledging Funds

Grantees are required to credit IMLS/LSTA in all related publications and activities in conjunction with the use of grant funds. Grantees should publicize grant-supported activities in available and appropriate media. The following statement must be used when meeting these requirements: "This publication/ activity/program was supported by grant funds from the Institute of Museum and Library Services under the provisions of the federal Library Services and Technology Act as administered by the State Library of North Carolina, a division of the Department of Natural and Cultural Resources." Copies of any publications or materials produced under the grant must be submitted to the State Library. IMLS logos are available at http://www.imls.gov/recipients/imls_acknowledgement.aspx

10. Lobbying

Grantees are prohibited by federal law from using grant funds to pay costs associated with lobbying Congress or the public for purposes of influencing elections, legislation, or the award of any federal funds. Grantees receiving an award of over $100,000 must file a certification regarding lobbying.

11. Non-discrimination

All library services provided as a result of federal grant funds must be available without discrimination to all members of the community served. Participation may not be denied on the basis of race, color, national origin, handicap, age, or sex. Relevant legislation includes but is not limited to the following: Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d through 2000d-4); Title IX of the Education Amendments of 1972 (20 U.S.C. 1681-1683); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); The Age Discrimination Act (42 U.S.C. 6101 *et. seq*); 45 CFR 1110 - Nondiscrimination in federally assisted programs; 45 CFR 1170 - Nondiscrimination on the basis of handicap in federally assisted programs and activities; 45 CFR 1181 - Enforcement of nondiscrimination on the basis of handicap in programs or activities conducted by the Institute of Museum and Library Services.

12. Trafficking in Persons

Grantees must comply with 22 U.S.C. § 7104(g) which prohibits engaging in trafficking in persons, procuring a commercial sex act, or using forced labor.

13. Audit and Financial Reporting Requirements

LSTA grants must be audited in compliance with federal and state audit requirements for local governments and public authorities, institutions of higher education, and non-profit organizations. The following source documents outline the standards and requirements:

- United States Office of Management and Budget (OMB) 2 CFR 200, Subpart F - Audit Requirements
- North Carolina General Statute 143C-6-23 "State grant funds: administration; oversight and reporting requirements," and the corresponding rules of North Carolina Administrative Code, Title 09, Chapter 03M, "Uniform Administration of State Grants."

LEGAL REFERENCES:

- 2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards [address grants and cooperative agreements pertaining to institutions of higher education, states, local governments, Indian tribes, and nonprofit organizations]
- 2 CFR Part 3185 - Nonprocurement debarment and suspension
- 2 CFR 3186 - Requirements for drug-free workplace

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CERTIFICATION REGARDING DEBARMENT AND SUSPENSION; LOBBYING; FEDERAL DEBT STATUS; AND NONDISCRIMINATION

1. DEBARMENT AND SUSPENSION

The grantee shall comply with 2 CFR Part 3185. The undersigned, on behalf of the grantee, certifies to the best of his or her knowledge and belief that neither the grantee nor any of its principals:

(a) Are presently excluded or disqualified;
(b) Have been convicted within the preceding three years of any of the offenses listed in 2 CFR section 180.800(a) or had a civil judgment rendered against you for one of those offenses within that time period;
(c) Are presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses listed in 2 CFR section 180.800(a); or
(d) Have had one or more public transactions (Federal, State, or local) terminated within the preceding three years for cause or default.

Where the grantee is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this submission.

The grantee is required to communicate the requirement to comply with 2 CFR Part 180 Subpart C (Responsibilities of Participants Regarding Transactions Doing Business With Other Persons) to persons at the next lower tier with whom the grantee enters into covered transactions.

2. LOBBYING

As required by Section 1352, Title 31 of the United States Code, and implemented for persons entering into a grant or cooperative agreement over $100,000, the grantee certifies to the best of his or her knowledge and belief that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into of a cooperative agreement, or the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.
(b) If any funds other than appropriated Federal funds have been paid or will be paid to any person (other than a regularly employed officer or employee of the grantee) for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall request, complete, and submit Standard Form LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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3. FEDERAL DEBT STATUS

The undersigned, on behalf of the grantee, certifies to the best of his or her knowledge and belief that the grantee is not delinquent in the repayment of any Federal debt.

4. NONDISCRIMINATION

As required by the Civil Rights Act of 1964, the Rehabilitation Act of 1973, the Education Amendments of 1972, and the Age Discrimination in Employment Act of 1975, as implemented at 45 C.F.R. Part 1180.44, the undersigned, on behalf of the grantee, certifies that the grantee will comply with the following nondiscrimination statutes and their implementing regulations:

(a) Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000 *et seq.*), which provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination under any program or activity receiving Federal financial assistance;
(b) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 701 et seq.), which prohibits discrimination on the basis of disability in Federally-assisted programs; (c) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-83, 1685- 86), which prohibits discrimination on the basis of sex in education programs and activities receiving Federal financial assistance;
(d) The Age Discrimination in Employment Act of 1975, as amended (42 U.S.C. § 6101 *et seq.*), which prohibits discrimination on the basis of age in Federally-assisted programs;

The undersigned further provides assurance that it will include the language of these certifications in all subawards and that all subrecipients shall certify and disclose accordingly.

As the duly authorized representative of the grantee, I hereby certify that the grantee will comply with the above certifications.

Signature of Authorized Certifying Official

~~Rod Honeycutt~~ Matt Weintel ~~County Manager~~ Chair, BOC
Print Name and Title of Authorized Certifying Official

August 27, 2024
Date

I have attached my Conflict of Interest Policy

X My Conflict of Interest Policy is on file

LSTA Staff: Check here if all documents have been received and all signatures have been gathered.