State of North Carolina

Minutes

County of Madison

The Madison County Board of Commissioners met in special session on Tuesday, June 25, 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 6:00 p.m. by Chairman Wechtel.

**Item 1: Public Service Complex Request for Qualifications Short List Selection**

County Manager Rod Honeycutt discussed responses received from the most recent issuance of the public service complex design-build request for qualifications noting that responses have been received from Branch Group, Haskell Company, and Vanoy Construction. Discussion was had by the Board and Manager Honeycutt with counsel being provided by County Attorney Laws regarding the process for consideration of firm selection.

Upon motion by Vice-Chairman Garrison and second by Commissioner Wyatt, the Board voted unanimously to interview all three firms.

**Item 2: Fairgrounds Capital Improvement Project Ordinance**

Grant Coordinator Hannah Shelton presented and discussed the Fairgrounds Capital Improvement Project Ordinance noting that the document would serve to appropriately allocate funds received by the County for fairgrounds upgrades and expansion from S.L 2023-134.

Upon motion by Commissioner Hensley and second by Commissioner Wyatt, the Board voted unanimously to approve.
(Attachment 2.1)

**Item 3: Fairgrounds Capital Improvement Design-Build Resolution and Request for Qualifications**

Grant Coordinator Hannah Shelton presented and discussed the Fairgrounds Design-Build Resolution and request for qualifications noting that the resolution is updating the previous resolution adopted by the Board by including criteria that was not included in the original document.

Upon motion by Vice-Chairman Garrison and second by Commissioner Hensley, the Board voted unanimously to approve.
(Attachment 3.1)

**Item 4: Madison County Industrial Park Site Development Capital Project Ordinance**

Grant Coordinator Hannah Shelton presented and discussed the Madison County Industrial Park Site Development Capital Project Ordinance noting that the document would serve to appropriately allocate funds for development of the County's Industrial Park on Long Branch Road.

Upon motion by Commissioner Wyatt and second by Chairman Wechtel, the Board voted unanimously to approve.
(Attachment 4.1)

**Item 5: Madison County Manufacturing Art Park Agreement**

Development Services Director Brad Guth presented and discussed an updated proposed agreement for the Madison County Manufacturing Art Park noting that it would serve to work directly with two artists for the project.

Upon motion by Chairman Wechtel and second by Vice-Chairman Garrison, the Board voted unanimously to approve.
(Attachment 5.1)

**Item 6: Skyrunner-Marshall Wi-Fi Provider Contract**

Development Services Director Brad Guth presented and discussed a proposed contract with Skyrunner to provide Wi-Fi service for the downtown Marshall Wi-Fi project.

Upon motion by Commissioner Wyatt and second by Commissioner Hensley, the Board voted unanimously to approve.
(Attachment 6.1)

**Item 7: County Owned Property Facilities Discussion**

County Manager Honeycutt discussed facilities located on County owned property including the fairgrounds, Ebbs Chapel Community Center, and Spring Creek Community Center and requested clarification for the process for approving proposed projects that would change the County's property.

Project Manager Ross Young presented information regarding the BRITE grant application recently submitted by the Spring Creek Community Center and discussed components contained in the application as well as answered questions from members of the Board.

Discussion was had by the Board regarding the need for Board approval prior to applying for funding for such projects.

**Item 8: Property Acquisition, Item 9: Attorney-Client Privilege**

Upon motion by Vice-Chairman Garrison and second by Commissioner Hensley, the Board voted unanimously to enter into closed session for property acquisition and attorney-client privilege pursuant to N.C.G.S. 143-318.11 (a)(5) and N.C.G.S. 143-318.11 (a)(6) at 6:43 p.m.

Upon motion by Vice-Chairman Garrison and second by Commissioner Hensley, the Board voted unanimously to return to open session at 7:57 p.m.

Upon motion by Vice-Chairman Garrison and second by Commissioner Wyatt, the Board voted unanimously to authorize the exchange of property that we discussed based on the survey for the property on Carolina Lane and Medical Park Drive with the school system. (Attachment 8.1)

Upon motion by Chairman Wechtel and second by Commissioner Hensley, the Board voted unanimously to declare the property on Carolina Lane as surplus according to General Statute and allow the County Manager and staff to dispose. (Attachment 8.2)

**Item 10: Buckner Tax Appeal**

Item not discussed at this time.

**Item 11: Adjournment**

Upon motion by Commissioner Wyatt and second by Commissioner Hensley, the Board voted unanimously to adjourn at 7:59 p.m.

This the 25th day of June 2024.

MADISON COUNTY

Matt Wechtel, Chairman
Board of Commissioners

ATTEST:

Mandy Bradley, Clerk

# Capital Project Ordinance for the County of Madison, NC Directed Grant provided by North Carolina Office of State Budget and Management (OSMB). Referred to as the Madison County Fairgrounds Capital Improvement Project: Contract # 20402

BE IT ORDAINED by the County of Madison, North Carolina that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following Capital Project Ordinance is hereby adopted:

**Section 1:** This ordinance is to establish a budget to be funded by the Current Operations Appropriations Act of 2023 (Session Law 2023-134). The County of Madison has received $1,200,000 of Directed Grant funds for capital improvements to the Madison County Fairgrounds. These funds may be used for the following categories of expenditures, to the extent authorized by State law.

1. Construction of a metal building for arena cover
2. Grading and Concrete Pads
3. Electrical Work
4. New Restrooms
5. New Mechanical Room
6. New Press Boxes

**Section 2:** The following amounts are appropriated for the project and authorized for expenditure:

| Internal Project Code | Project Description | Expenditure Category (EC) | Cost Object | Appropriation of SCIF Funds |
|---|---|---|---|---|
| | Construction of a metal building for arena cover | 2 | | $684,000 |
| | Grading and Concrete Pads | 2 | | $86,000 |
| | Electrical Work | 2 | | $140,000 |
| | New Restrooms | 3 | | $100,000 |
| | New Mechanical Room | 2 | | $130,000 |
| | New Press Boxes | 2 | | $60,000 |
| | **Overall TOTAL** | | | $1,200,000 |

**Section 3:** The following revenues are anticipated to be available to complete the project:

**S.L. 2023-134 Directed Grant** **$1,200,000**

**Section 4:** The Finance Officer is hereby directed to maintain sufficient specific detailed accounting records to satisfy the requirements of the grantor agency and the grant agreements.

**Section 5:** The Grant Coordinator, working under the direction of the County Manager, is hereby directed to report the financial status of the project on a quarterly basis.

**Section 6:** Copies of this Capital Project Ordinance shall be furnished to the Board of Commissioners and voted on in a public meeting.

**Section 7:** This Capital Project Ordinance expires on October 3, 2025, or when all the Directed Grant funds have been obligated, expended and all final reports have been completed, whichever occurs sooner.

Adopted on this 25 day of June 2024

Matthew Wechtel
Chairman, Board of Commissioners

ATTEST:

Mandy Bradley
Clerk to the Board

Attachment 3.1

# County of Madison

## RESOLUTION BY THE MADISON COUNTY BOARD OF COMMISSIONERS AUTHORIZING DESIGN-BUILD CONSTRUCTION DELIVERY METHOD FOR THE UPGRADES AND EXPANSION OF THE MADISON COUNTY FAIRGROUNDS FACILITIES IN THE MARSHALL TOWNSHIP

**WHEREAS,** pursuant to N.C. General Statute §143A-128.1A, a County may utilize the design-build delivery method for construction contracts; and,

**WHEREAS,** to utilize the design-build delivery method, a County must establish written criteria to determine the circumstances under which the design-build method is appropriate for a project; and,

**WHEREAS,** the criteria proposed and its application to the upgrades and expansion of the Madison County Fairgrounds facilities in the Marshall Township is:

**Criteria 1-** *The extent to which the County can adequately and thoroughly define the project requirements prior to the issuance of the request for qualifications for a design-builder.* Through its managerial, finance, and planning personnel, Madison County is equipped with professional personnel with the experience and qualifications needed to thoroughly define the project requirements prior to the issuance of a Request for Qualifications for design-builder.

**Criteria 2-** *The time constraints for the delivery of the project.* The Board of Commissioners has determined that this project should be completed in the most time-effective and efficient manner available to limit interference of regular business operations. The design-build delivery method will allow for the project to be completed expeditiously.

**Criteria 3-** *The ability to ensure that a quality project can be delivered.* Through its managerial, finance, and planning personnel, Madison County is equipped with qualified personnel available to ensure that the design-build firm will provide a quality project within the budget constraints established for the project.

**Criteria 4-** *The capability of the County to manage and oversee the project, including the availability of experienced staff or outside consultants who are experienced with the design-build method of project delivery.* Through its managerial, finance, and planning personnel Madison County is equipped with personnel who will ensure proper management and oversight of the design-build project. Should it become necessary to contract for construction management of this project, there are experienced consultants local to Madison County that could provide these additional services.

**Criteria 5-** *A good faith effort to comply with N.C. G.S. § 143-128.2, N.C. G.S. § 143-128.4, and to recruit and select small business entities.* Madison County complies with all applicable statutes and regulations as set forth in the General Statutes listed above. The County will require contractors to comply with the HUB goals set by the Board of Commissioners.

**Criteria 6-** *The criteria utilized by the County, including a comparison of the costs and benefits of using the design-build delivery method for a given project in lieu of the other delivery methods identified.* The design-build delivery method provides a one-team approach, which leads to lower costs and a shorter project timeline. Project time constraints and process efficiency make the design-build option more appealing than the traditional construction delivery method.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Commissioners for Madison County, North Carolina that the written criteria set forth in this resolution is adopted and it is determined that the design- build delivery method is approved for utilization for the upgrades and expansion of the Madison County Fairgrounds facilities in the Marshall Township. Further, this Resolution shall be effective on and after the adoption date below.

**Adopted the** 25 **day of** June **2024.**

Matthew Wechtel

Chairman, Board of Commissioners

ATTEST:

Mandy Bradley

Clerk to the Board of Commissioners

Attachment 4.1

# Capital Project Ordinance for the County of Madison, NC Industrial Site Development Project Funded by the Golden Leaf Foundation

**BE IT ORDANINED** by the County of Madison, North Carolina, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

**Section 1:** This ordinance is to establish a budget for a project to be funded by the Golden Leaf Foundation. The County of Madison has received $1,500,000 of Golden Leaf Foundation funds. These funds may be used for the following categories of expenditures, to the extent authorized by State law.

1. Support engineering and design services in preparation of site development
2. Support retaining wall design and construction
3. Support clearing, grubbing, erosion control, and other site preparation of the 27.5-acre Madison County Industrial Park

**Section 2:** The following amounts are appropriated for the project and authorized for expenditure:

| Internal Project Code | Project Description | Expenditure Category (EC) | Appropriation of Golden Leaf Foundation Funds |
|---|---|---|---|
| | Site preparation of the Madison County Industrial Site | 2 | $1,500,000 |
| | Total: | | $1,500,000 |

**Section 3:** The following revenues are anticipated to be available to complete the project:

| | |
|---|---|
| **Golden Leaf Foundation:** | **$1,500,000** |
| **General Fund Transfer:** | **$294,550** |
| **Total:** | **$1,794,550** |

**Section 4:** The Finance Officer is hereby directed to maintain sufficient specific detailed accounting records to satisfy the requirements of the grantor agency and the grant agreements.

**Section 5:** The Madison County Economic Development Director is hereby directed to report the financial status of the project semi-annually.

**Section 6:** Copies of this capital project ordinance shall be furnished to the Board of Commissioners and voted on in a public meeting.

**Section 7:** This capital project ordinance expires on December 7, 2024, or when all Golden Leaf Foundation funds have been obligated, expended, and all final reports have been completed; whichever occurs sooner.

Adopted on this 25 day of June 2024

Matthew Wechtel

Chairman, Board of Commissioners

ATTEST:

Mandy Bradley

Clerk to the Board

**STATE OF NORTH CAROLINA**

**COUNTY OF MADISON**

# MADISON COUNTY MANUFACTURING ART PARK

# AGREEMENT

**THIS AGREEMENT** is made and entered into this the 25 June, 2024 by and between **MADISON COUNTY, a body politic, (hereinafter referred to as "County"); and Thaddeus Prevette, (hereinafter referred to as "Artist");**

**WITNESSETH:**

**THAT WHEREAS** the County is the administrator of a grant heretofore received by the County which provides for the creation of a piece of sculpture, for the purposes of this Agreement named "____The Switch____," (hereinafter referred to as "sculpture") and pursuant to the terms of said grant, the County has received proposals for the creation of the sculpture and the artist has been chosen for the creation of the sculpture and this Agreement is made for the purposes of memorializing the terms between the County and the artist for the creation of the sculpture.

**WHEREAS**, the Artist is a professional artist whose work and qualifications make the Artist uniquely qualified to create the Sculpture;

**WHEREAS**, the Artist was selected based upon the Artist's work and qualifications; and

**NOW THEREFORE** the parties hereto agree as follows:

**Article 1**: Sculpture. The artist shall create the sculpture per the renderings and designs set forth in the proposal, a copy of which is attached hereto as Exhibit "One" and incorporated in full herein. The design may be modified upon the mutual written agreement of the County and artist.

**Article 2**: Compensation. The County shall pay to the artist the total sum of $4,750.00 for the creation of the sculpture. Said amount to be payable in two (2) equal installments, with the first payment of $2,375 being due and payable on the execution of this Agreement, 2nd **upon installation of** piece **at the a g reed upon site.** The completed sculpture shall be delivered by the artist to the County for placement at the Madison Manufacturing Art Park no later than November 1st, 2024. Earlier timeline preferred if possible. Furthermore, the artist shall include the mounting for the sculpture, including, without limitation, the bolt pattern. Madison County will supply the concrete base if needed.

**Article 3**: Fabrication Stage.

A. The Artist shall fabricate [and install] the Sculpture in substantial conformity with the Design. The Artist may not deviate from the approved design without written approval of the County.
B. The application of protective or anti-graffiti coatings.

C. The County shall have the right to review the Sculpture at reasonable times during the fabrication thereof upon reasonable notice.

D. If the County, upon review of the Sculpture, determines that the Sculpture does not conform to the Design or Revised Design, the County reserves the right to notify the Artist in writing of the deficiencies and that the County intends to withhold the next budget installment.

E. The Artist will promptly cure the County's objections and will notify the County in writing of completion of the cure. The County shall promptly review the Sculpture, and upon approval shall release the next budget installment. If the Artist disputes the County's determination that the Sculpture does not conform, the Artist shall promptly submit reasons in writing to the County within [10] days of the County's prior notification to the contrary. The County shall make reasonable efforts to resolve the dispute with the Artist in good faith. However, final determination as to whether the Artist has complied with the terms of this Agreement shall remain with the County.

F. The County shall inspect the Sculpture within [10} days after receiving notification pursuant to paragraph (f), prior to installation, to determine that the Sculpture conforms to the Design and to give final approval of the Sculpture. The County shall not unreasonably withhold final approval of the fabricated Sculpture. In the event that the County does withhold final approval, the County shall submit the reasons for such disapproval in writing within [10} days of examining the fabricated Sculpture. The Artist shall then have [10]days from the date of the County's notice of the disapproval to make the necessary adjustments to the fabricated Sculpture in accordance with such writing. The Artist shall not be penalized for any delay in the delivery and installation of the Sculpture to the Site unless the Artist has willfully and substantially deviated from the Design without the prior approval of the County. The Artist shall then be held responsible for any expenses incurred in correcting such deviation.

G. The Artist will coordinate closely with the County to ascertain that the Site is prepared to receive the Sculpture. Artist must notify County of any adverse conditions at the Site that would effect or impede the installation of the Sculpture. The Artist is responsible for timely installation of the Sculpture. The Artist will confer and coordinate with the County to ensure timely coordination with the County's construction team, Artist may not install the Sculpture until authorized to do so by the County.

H. Upon installation of the Sculpture, the Artist shall provide the County with written instructions for the appropriate maintenance and preservation of the Sculpture along with product data sheets for any material or finish used. The Sculpture must be durable, taking into consideration that the Site is an unsecured public space that may be exposed to elements such as weather, temperature variation, and considerable movement of people and equipment. Artist must ensure that all maintenance requirements will be reasonable in terms of time and expense. The County or its designee is responsible for the proper care and maintenance of the Sculpture.

**Article 4**: Taxes

Any state or federal sales, use or excise taxes, or similar charges relating to the services and materials under this Agreement shall be paid by the Artist in a timely fashion. The County shall report payments made to the Artist annually to the Internal Revenue Department in a 1099 statement.

**Article 5**: Risk of Loss
The Artist shall bear the risk of loss or damage to the Sculpture until the County's final acceptance of the Sculpture under Section 1.8(b). The Artist shall take such measures as are reasonably necessary to protect the Sculpture from loss or damage. The County shall bear the risk of loss or damage to the Sculpture prior to final acceptance only if, during such time, the partially or wholly completed Sculpture is in the custody, control or supervision of the County or its agent(s) for the purposes of transporting, storing, installing or performing other services to the Sculpture.

**Article 6**: Warranties of Title
The Artist represents and warrants that:

A. The Sculpture is solely the result of the artistic effort of the Artist;
B. Except as otherwise disclosed in writing to the County, the Sculpture is unique and original and does not infringe upon any copyright or the rights of any person;
C. The Sculpture (or duplicate thereof) has not been accepted for sale elsewhere;
D. the Artist has not sold, assigned, transferred, licensed, granted, encumbered or utilized the Sculpture or any element thereof or any copyright related thereto which may affect or impair the rights granted pursuant to this Agreement;
E. The Sculpture is free and clear of any liens from any source whatsoever.
F. All Sculpture created or performed by the Artist under this Agreement, whether created by the Artist alone or in collaboration with others, shall be wholly original with the Artist and shall not infringe upon or violates the rights of any third party.
G. The Artist has the full power to enter into and perform this Agreement and to make the grant of rights contained in this Agreement.
H. All services performed hereunder shall be performed in accordance with all applicable laws, regulations, ordinances, etc. and with all necessary care, skill, and diligence.
I. These representations and warranties shall survive the termination or other extinction of this Agreement.

**Article 7**: Artist as an Independent Contractor
The Artist agrees to perform all Sculpture under this Agreement as an independent contractor and not as an agent or employee of the County. The Artist acknowledges and agrees that the Artist shall not hold himself or herself out as an authorized agent of the Contract with the power to bind in any manner. The Artist shall provide the County with the Artist's Tax Identification Number and any proof of such number as requested by the County.

**Article 8**: Failure to Complete
If the Artist defaults [for cause other than death or incapacitation], the Artist shall return to the County all funds provided by the County in excess of expenses already incurred. The Artist shall provide an accounting. All finished and unfinished drawings, sketches, photographs and other Sculpture products prepared and submitted or prepared for submission by the Artist under this Agreement shall be retained by the Artist. [The County [shall] retain the right to have the Sculpture completed, fabricated, executed, delivered and installed.]

Article 9: Credit for Creation

The County or its designee shall be the owner of the sculpture and the County or its designee agrees to provide credits to the artist for the creation of the sculpture.

**Article 10:** Entire Agreement

This Agreement, including the exhibits, comprises all of the covenants, promises, agreements, and conditions between the parties. No verbal agreements or conversations between the Parties prior to the execution of this Agreement shall affect or modify any of the terms or obligations.

This the _____ day of June, 2024.

MADISON COUNTY

By: _____ (SEAL)

State of NC
County of Madison

I Kary A Ledford
Notary Public of said State and County, do Hereby certify that
Matt Wechtel
The (principal) personally appeared before me this day, and/or (I) I have personal knowledge of the identity of the principal, and/or (ii) I have seen satisfactory evidence of the principal's identity, by current State or Federal identification with the principal's photograph, and such principal Acknowledged to me that he or she voluntarily signed the foregoing going for the purpose therein and in the capacity indicated.

Kary Ledford
Notary Public Signature

Kary A. Ledford
Notary Printed or Typed Name

Witness my hand and official seal or stamp,
This 25 day of June, 2024

My Commission expires on
17Dec24

By: _____ (SEAL)

State of _____
County of _____

I _____
Notary Public of said State and County, do Hereby certify that

_____
The (principal) personally appeared before me this day, and/or (I) I have personal knowledge of the identity of the principal, and/or (ii) I have seen satisfactory evidence of the principal's identity, by current State or Federal identification with the principal's photograph, and such principal Acknowledged to me that he or she voluntarily signed the foregoing going for the purpose therein and in the capacity indicated.

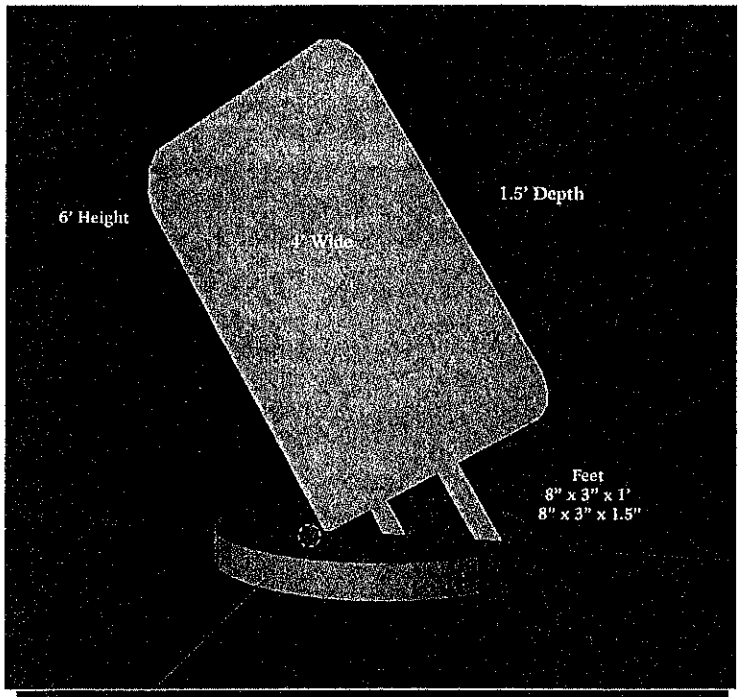
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Notary Public Signature

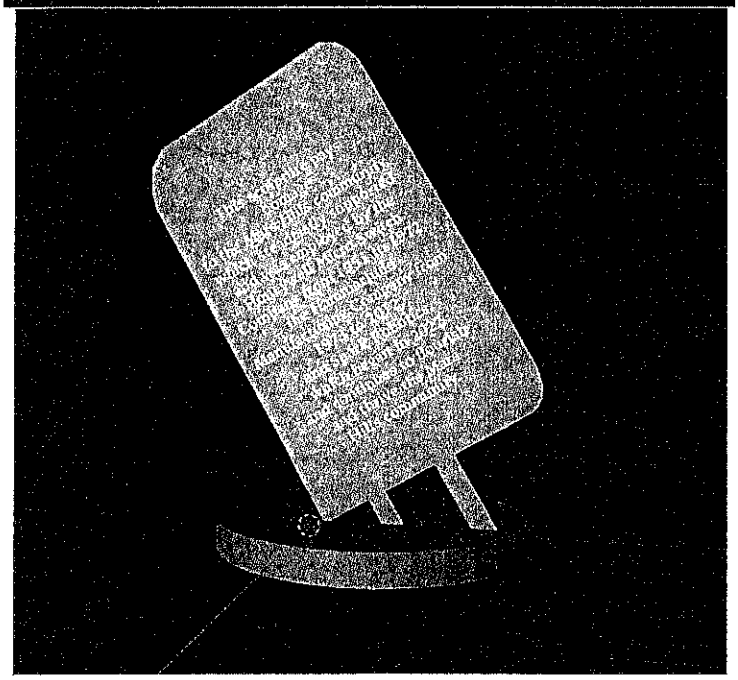
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Notary Printed or Typed Name

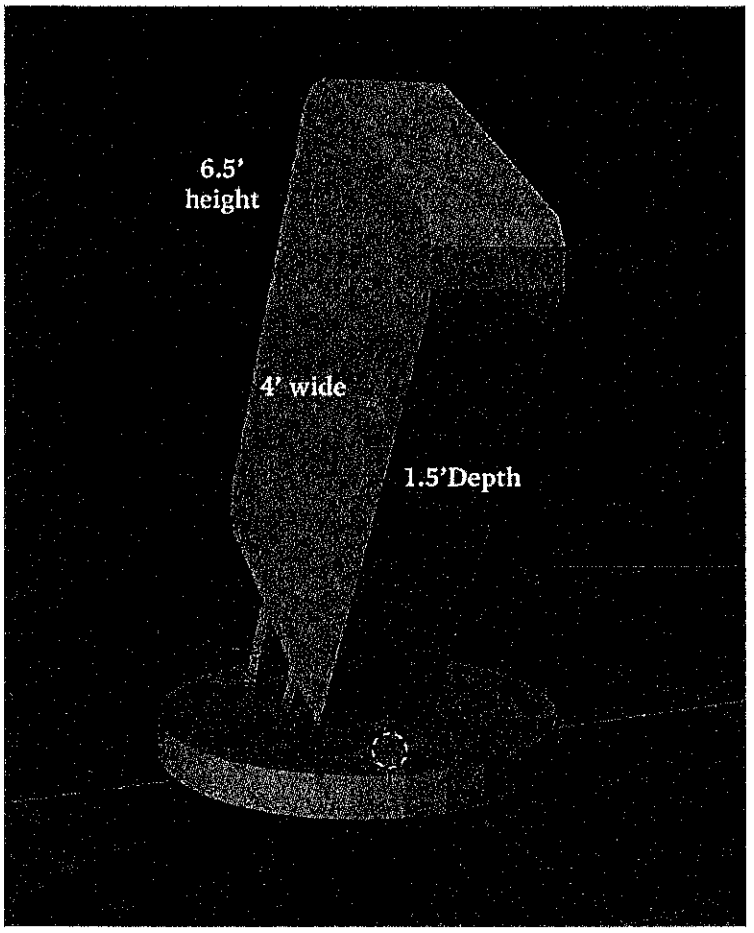
Witness my hand and official seal or stamp,
This ____ day of _____

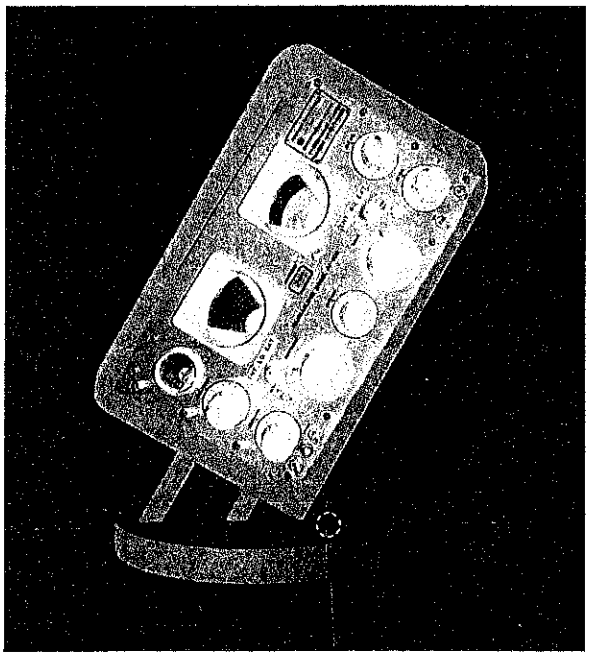
My Commission expires on
_____

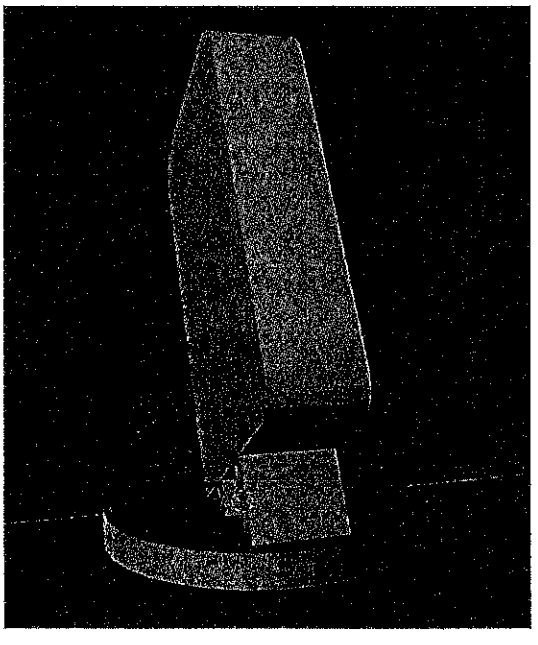
Appendix A


6' Height
4' Wide
1.5' Depth
Feet
8" x 3" x 1'
8" x 3" x 1.5"




6.5'
height
4' wide
1.5'Depth





**STATE OF NORTH CAROLINA**

**COUNTY OF MADISON**

**MADISON COUNTY MANUFACTURING ART PARK**

**AGREEMENT**

**THIS AGREEMENT** is made and entered into this the 25 June, 2024 by and between **MADISON COUNTY, a body politic, (hereinafter referred to as "County"); and** Karena Graves, **(hereinafter referred** to **as "Artist");**

**WITNESSETH:**

**THAT WHEREAS** the County is the administrator of a grant heretofore received by the County which provides for the creation of a piece of sculpture, for the purposes of this Agreement named "____The Switch____," (hereinafter referred to as "sculpture") and pursuant to the terms of said grant, the County has received proposals for the creation of the sculpture and the artist has been chosen for the creation of the sculpture and this Agreement is made for the purposes of memorializing the terms between the County and the artist for the creation of the sculpture.

**WHEREAS**, the Artist is a professional artist whose work and qualifications make the Artist uniquely qualified to create the Sculpture;

**WHEREAS**, the Artist was selected based upon the Artist's work and qualifications; and

**NOW THEREFORE** the parties hereto agree as follows:

**Article 1**: Sculpture. The artist shall create the sculpture per the renderings and designs set forth in the proposal, a copy of which is attached hereto as Exhibit "One" and incorporated in full herein. The design may be modified upon the mutual written agreement of the County and artist.

**Article 2**: Compensation. The County shall pay to the artist the total sum of $4,750.00 for the creation of the sculpture. Said amount to be payable in two (2) equal installments, with the first payment of $2,375 being due and payable on the execution of this Agreement, 2nd upon installation of piece at the agreed upon site. The completed sculpture shall be delivered by the artist to the County for placement at the Madison Manufacturing Art Park no later than November 1st, 2024. Earlier timeline preferred if possible. Furthermore, the artist shall include the mounting for the sculpture, including, without limitation, the bolt pattern. Madison County will supply the concrete base if needed.

**Article 3**: Fabrication Stage.

A. The Artist shall fabricate [and install] the Sculpture in substantial conformity with the Design. The Artist may not deviate from the approved design without written approval of the County.
B. The application of protective or anti-graffiti coatings.

C. The County shall have the right to review the Sculpture at reasonable times during the fabrication thereof upon reasonable notice.

D. If the County, upon review of the Sculpture, determines that the Sculpture does not conform to the Design or Revised Design, the County reserves the right to notify the Artist in writing of the deficiencies and that the County intends to withhold the next budget installment.

E. The Artist will promptly cure the County's objections and will notify the County in writing of completion of the cure. The County shall promptly review the Sculpture, and upon approval shall release the next budget installment. If the Artist disputes the County's determination that the Sculpture does not conform, the Artist shall promptly submit reasons in writing to the County within [10] days of the County's prior notification to the contrary. The County shall make reasonable efforts to resolve the dispute with the Artist in good faith. However, final determination as to whether the Artist has complied with the terms of this Agreement shall remain with the County.

F. The County shall inspect the Sculpture within [10} days after receiving notification pursuant to paragraph (f), prior to installation, to determine that the Sculpture conforms to the Design and to give final approval of the Sculpture. The County shall not unreasonably withhold final approval of the fabricated Sculpture. In the event that the County does withhold final approval, the County shall submit the reasons for such disapproval in writing within [10} days of examining the fabricated Sculpture. The Artist shall then have [10 ]days from the date of the County's notice of the disapproval to make the necessary adjustments to the fabricated Sculpture in accordance with such writing. The Artist shall not be penalized for any delay in the delivery and installation of the Sculpture to the Site unless the Artist has willfully and substantially deviated from the Design without the prior approval of the County. The Artist shall then be held responsible for any expenses incurred in correcting such deviation.

G. The Artist will coordinate closely with the County to ascertain that the Site is prepared to receive the Sculpture. Artist must notify County of any adverse conditions at the Site that would effect or impede the installation of the Sculpture. The Artist is responsible for timely installation of the Sculpture. The Artist will confer and coordinate with the County to ensure timely coordination with the County's construction team. Artist may not install the Sculpture until authorized to do so by the County.

H. Upon installation of the Sculpture, the Artist shall provide the County with written instructions for the appropriate maintenance and preservation of the Sculpture along with product data sheets for any material or finish used. The Sculpture must be durable, taking into consideration that the Site is an unsecured public space that may be exposed to elements such as weather, temperature variation, and considerable movement of people and equipment. Artist must ensure that all maintenance requirements will be reasonable in terms of time and expense. The County or its designee is responsible for the proper care and maintenance of the Sculpture.

**Article 4**: Taxes

Any state or federal sales, use or excise taxes, or similar charges relating to the services and materials under this Agreement shall be paid by the Artist in a timely fashion. The County shall report payments made to the Artist annually to the Internal Revenue Department in a 1099 statement.

**Article 5**: Risk of Loss
The Artist shall bear the risk of loss or damage to the Sculpture until the County's final acceptance of the Sculpture under Section 1.8(b). The Artist shall take such measures as are reasonably necessary to protect the Sculpture from loss or damage. The County shall bear the risk of loss or damage to the Sculpture prior to final acceptance only if, during such time, the partially or wholly completed Sculpture is in the custody, control or supervision of the County or its agent(s) for the purposes of transporting, storing, installing or performing other services to the Sculpture.

**Article 6**: Warranties of Title
The Artist represents and warrants that:

A. The Sculpture is solely the result of the artistic effort of the Artist;
B. Except as otherwise disclosed in writing to the County, the Sculpture is unique and original and does not infringe upon any copyright or the rights of any person;
C. The Sculpture (or duplicate thereof) has not been accepted for sale elsewhere;
D. the Artist has not sold, assigned, transferred, licensed, granted, encumbered or utilized the Sculpture or any element thereof or any copyright related thereto which may affect or impair the rights granted pursuant to this Agreement;
E. The Sculpture is free and clear of any liens from any source whatsoever.
F. All Sculpture created or performed by the Artist under this Agreement, whether created by the Artist alone or in collaboration with others, shall be wholly original with the Artist and shall not infringe upon or violates the rights of any third party.
G. The Artist has the full power to enter into and perform this Agreement and to make the grant of rights contained in this Agreement.
H. All services performed hereunder shall be performed in accordance with all applicable laws, regulations, ordinances, etc. and with all necessary care, skill, and diligence.
I. These representations and warranties shall survive the termination or other extinction of this Agreement.

**Article 7**: Artist as an Independent Contractor
The Artist agrees to perform all Sculpture under this Agreement as an independent contractor and not as an agent or employee of the County. The Artist acknowledges and agrees that the Artist shall not hold himself or herself out as an authorized agent of the Contract with the power to bind in any manner. The Artist shall provide the County with the Artist's Tax Identification Number and any proof of such number as requested by the County.

**Article 8**: Failure to Complete
If the Artist defaults [for cause other than death or incapacitation], the Artist shall return to the County all funds provided by the County in excess of expenses already incurred. The Artist shall provide an accounting. All finished and unfinished drawings, sketches, photographs and other Sculpture products prepared and submitted or prepared for submission by the Artist under this Agreement shall be retained by the Artist. [The County [shall] retain the right to have the Sculpture completed, fabricated, executed, delivered and installed.]

Article 9: Credit for Creation

The County or its designee shall be the owner of the sculpture and the County or its designee agrees to provide credits to the artist for the creation of the sculpture.

**Article 10:** Entire Agreement
This Agreement, including the exhibits, comprises all of the covenants, promises, agreements, and conditions between the parties. No verbal agreements or conversations between the Parties prior to the execution of this Agreement shall affect or modify any of the terms or obligations.

This the _____ day of June, 2024.

MADISON COUNTY

By: _____ (SEAL)

By: _____ (SEAL)

State of NC
County of Madison

I Kary A Ledford
Notary Public of said State and County, do Hereby certify that
Matt Wechtel
The (principal) personally appeared before me this day, and/or (I) I have personal knowledge of the identity of the principal, and/or (ii) I have seen satisfactory evidence of the principal's identity, by current State or Federal identification with the principal's photograph, and such principal Acknowledged to me that he or she voluntarily signed the foregoing going for the purpose therein and in the capacity indicated.

_____
Notary Public Signature

Kary A. Ledford
Notary Printed or Typed Name

Witness my hand and official seal or stamp,
This 25 day of June, 2024

My Commission expires on
17 Dec 24

State of _____
County of _____

I _____,
Notary Public of said State and County, do Hereby certify that

_____
The (principal) personally appeared before me this day, and/or (I) I have personal knowledge of the identity of the principal, and/or (ii) I have seen satisfactory evidence of the principal's identity, by current State or Federal identification with the principal's photograph, and such principal Acknowledged to me that he or she voluntarily signed the foregoing going for the purpose therein and in the capacity indicated.

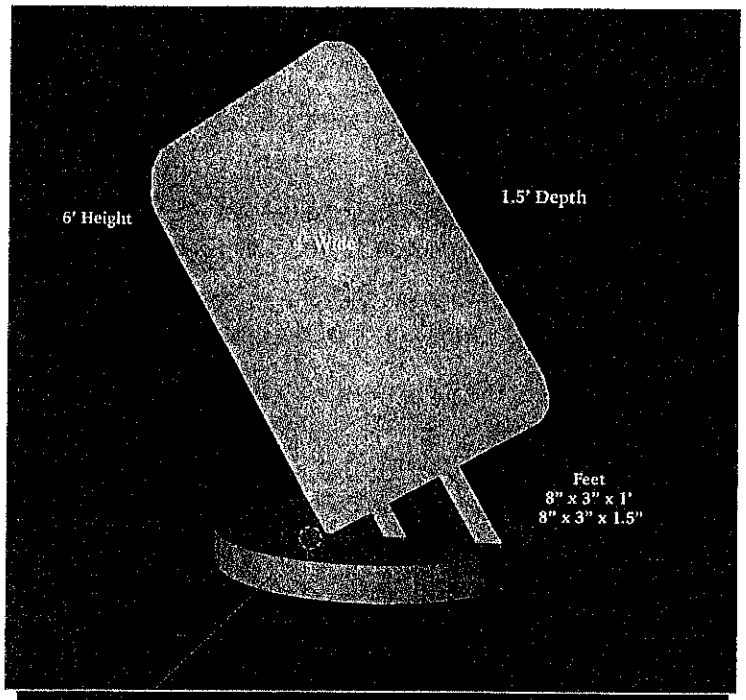
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Notary Public Signature

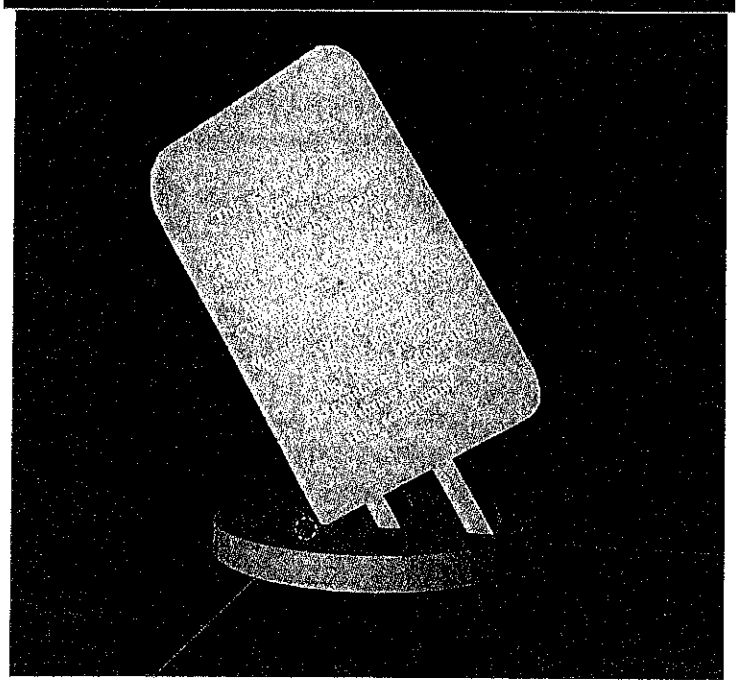
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Notary Printed or Typed Name

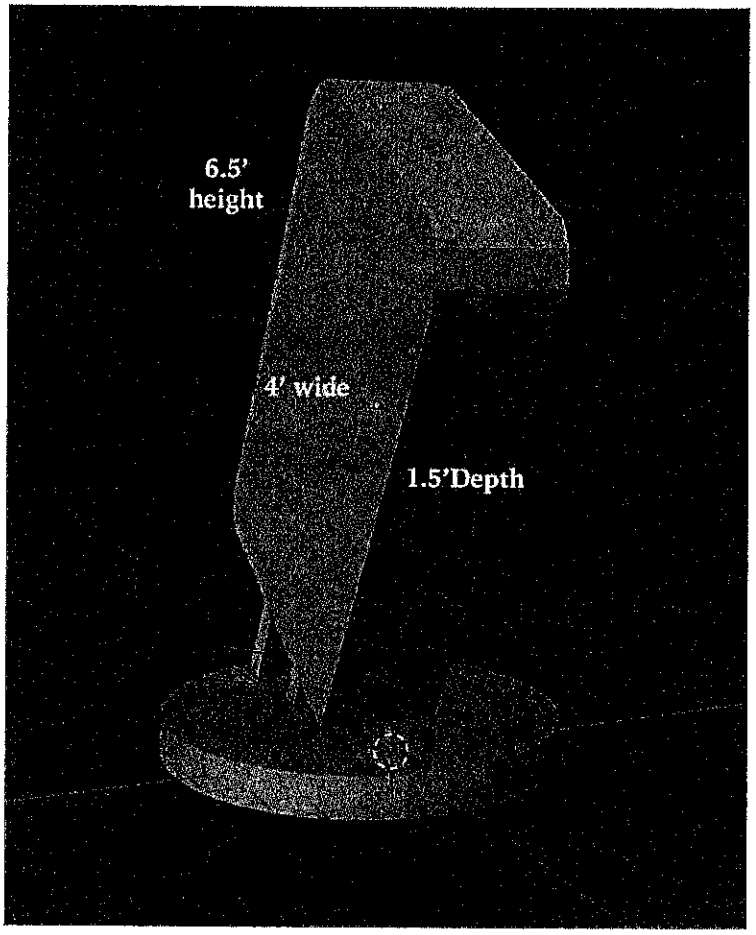
Witness my hand and official seal or stamp,
This _____ day of _____

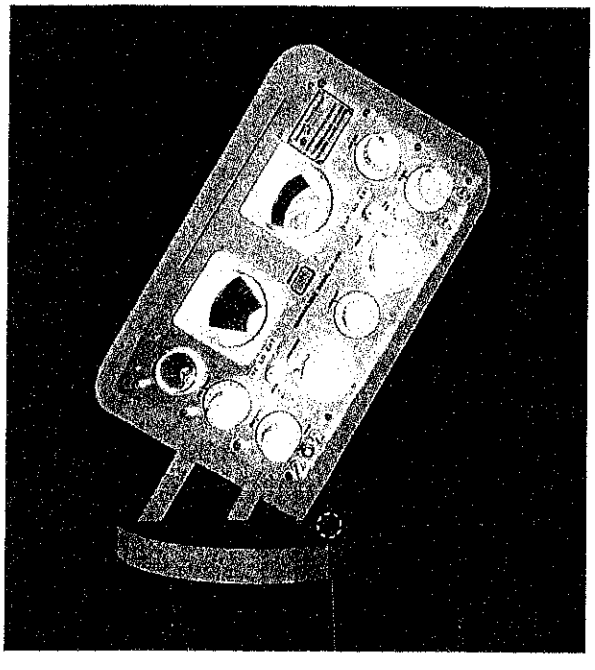
My Commission expires on
_____

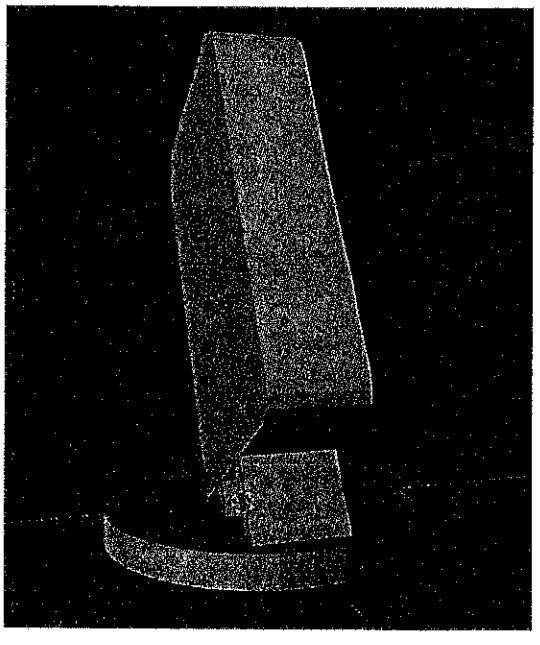
Appendix A







# Town of Marshall Downtown Public Wi-Fi Project Agreement

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  - Portal Environment
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  - Contracting Issues

February 27, 2023

Brad Guth
Madison County Government
107 Elizabeth Lane Marshall, NC, 28753
(919) 719-1113 / (828) 649-3766

Dear Madison County Government,

Enclosed is the Skyrunner, Inc agreement for the Town of Marshall Downtown Public WiFi Project to install, administer, and upkeep public WiFi serving downtown Marshall, NC. In addition to the technology proposed herein, Skyrunner is committed to providing the highest level of customer service and support for the end-user device. Additionally, Skyrunner will remain engaged, committed, and vigilant in solving all technology needs that will present itself during the duration of this project.

As an Internet provider for over 20 years, Skyrunner has the knowledge and infrastructure to deliver WiFi as a service or broadband to underserved and unserved areas within Western North Carolina. We are especially suited to this job as we already serve Marshall Island and many other businesses within, Madison County and all bordering Counties and maintain a large network in 19 neighboring counties. Skyrunner has the capacity to offer increased areas of coverage for this WiFi project beyond the initial areas by adding additional network assets if desired.

Skyrunner's, staff, and associates are grateful for the opportunity to provide this agreement for services. Our team members are passionate about serving our customers and community, helping the community patrons through all of their technology needs.

Sincerely,

The Skyrunner Team

COVER SHEET

| | |
|---|---|
| **Name of Person, Business or Organization** | **Skyrunner, Inc** |
| **Type of Entity** (e.g. Sole Proprietorship, Partnership, Corp., Nonprofit, Public Agency, etc.) | S-Corp |
| **Federal Tax ID number** | **20-2469536** |
| **Contact Person – Name** | **J.J. Boyd, President** |
| **Contact Person – Address** | **779 Dogwood Rd**<br>**Asheville, NC 28806** |
| **Contact Person – Phone number(s)** | **O:(828) 258-8562** |
| **Contact Person – email address** | **admin@skyrunner.net** |

By signing this ***Cover Sheet*** I hereby attest: that I have read and understood all the terms listed in the agreement.

_____ Date: _____

J.J. Boyd, President

## PREVIOUS EXPERIENCE

### COMPANY DESCRIPTION

Skyrunner Internet is a Fixed Wireless Internet Service Provider headquartered in Asheville located at 779 Dogwood Rd, Asheville, North Carolina. We currently serve most counties in Western North Carolina. We also serve several counties in upstate South Carolina.

Founded in 2004, our company has a proven track record of providing meaningful broadband solutions for over 17 years. Currently, Skyrunner has thirty-seven (37) team members, which includes Field Technicians, Engineering Staff, Administrative and Customer Service staff. We were among some of the first Internet service providers to offer fixed wireless technology.

**We are Local** - Skyrunner Internet now provides service for thousands of home and business clients throughout Western North Carolina and Upstate South Carolina. We strive to offer innovative and flexible broadband options to the community we care so much about. Our goal is to eliminate the homework gap and digital divide in Western North Carolina.

**Strong Values and Company Culture** - Asking any Skyrunner customer what makes them happy to work with Skyrunner, they will likely mention the friendly and supportive staff in the office and in the field. We have created a work culture that supports openness, high involvement, and dream chasing. We believe that a strong, positive, and evolving company culture cradles a high functioning support staff and effective solutions for all. We strive to provide the highest level of customer service and support which is continuously improving to make the customer experience better. Creating a strong team helps us keep a happy and growing customer base. We are deeply grateful for the business! Without our customers, we wouldn't get the chance to do what we love.

**Driven by Technology and Innovation** - Being at the forefront of technology, we are constantly innovating and pushing the boundaries of the technology. Our team has a deep understanding of how all the pieces of technology fit together to provide for the most effective and efficient end-user experience. We are constantly improving our network, engineering reliability, and secure network solutions. Our goal is to use technology to provide reliable and meaningful broadband connectivity to communities.

### RELIABILITY AND CUSTOMER SUPPORT

Our network maintains over 99.9% uptime. When there is an outage, we contact customers through an automated voice messaging system that informs them of the problem and provides an estimated time of repair. We deploy crews immediately upon a network outage, seven (7) days a week.

Skyrunner is well-prepared to undertake the project to design, build, and maintain broadband infrastructure that will provide service(s) to the Town of Marshall. Skyrunner's extensive experience, track record and expertise of building reliable networks, delivery of internet, and account aggregation will be extremely valuable for this project. Skyrunner has successfully built a business by providing broadband internet to underserved and unserved communities throughout Western North Carolina along with WiFi solutions for schools, events, commercial and government buildings.

## CUSTOMER SATISFACTION

Our mission is to provide meaningful broadband solutions to local and hard to reach underserved rural areas and communities. Our goal is to increase the number of businesses and residences who have reliable access to meaningful broadband. Our success is measured by the number of new clients accessing our services and by ongoing monitoring of customer satisfaction. We have seen steady annual growth in customer numbers, systematically expanded our areas of coverage, and maintained a high rate of customer satisfaction as measured by online reviews. Skyrunner is a customer centric organization always attempting to go over and beyond any of their needs. Our goal is to not only provide a broadband connection but to connect the end user device and ensure the highest level of satisfaction with end-user experience.

## CUSTOMER SEGMENTS AND SERVICES

SkyRunner provides services to Residential, Commercial, Institutional and Government customers. More specifically the following services are provided:

1. Provide both residential and commercial Broadband internet
2. Managed services such as Internal Network design and management, Workstation Setup, Ubiquitous WiFi, VOIP and Event Connectivity.
3. Enterprise Solutions which include Internal Network design and management, Workstation Setup, Ubiquitous WiFi, and VOIP
4. Community Development which includes Fiber to the Home utilizing both Hybrid Wireless Backhaul and a Fiber backhaul.




Figure 1: Sample of Residential Internet Plans Pricing

For the Broadband Internet offering there are no contracts and no surprises, all taxes and fees included in monthly pricing. Managed Services, Enterprise Solutions and Community Development projects are all quoted on a per job basis so that the customer needs and requirements are satisfied with the proposed solution.

**EXPERIENCE**

Skyrunner has provided similar WiFi projects both private and institutional. A couple projects to note would be the Town of Benson NC Downtown WiFi, Downtown Cashiers WiFi, Town of Weaverville Public WiFi, Town of Mars Hill Public WiFi and multiple RV parks in the region. References will be provided upon request.

**SCOPE OF WORK FOR WIFI SERVICE AND PORTAL DEPLOYMENT**

The Skyrunner Team, will supervise procurement, coordination, installation, and completion of the deployment of the seven Access Points, which will employ the same basic design as follows:

1. Using our existing Marshall Fiber connection as the Internet Point of Presence (POP), which would provide backhaul for all the seven (8) access points.
2. The WiFi project will have a Mikrotik router which will tie into our existing network core and infrastructure.
3. The Access Points locations will be installed on the existing building inside the downtown corridor. Skyrunner will coordinate access with building owners for Access Point installation and obtaining power for devices. If access is unobtainable, it will be the responsibility of the Town of Marshall to provide cooperation for access of pole attachments, Town Street Light Poles and supply power for given locations.
4. Each Ubiquiti UniFi Access Point - U6-Mesh Access Point will be mounted on a Tripod if mounted on building structures, and if mounted to poles or light poles the Access Point will be mounted directly on the structure (pole or street lighting pole). The Access points placement will focus on providing the largest coverage area up and down the downtown walking path.
5. Each AP will be supplied connectivity through using a point to multi point Wave AP Micro.

| QTY | Description | Unit Cost | Total Cost |
|---|---|---|---|
| | **Equipment and Labor** | | |
| 8 | Ubiquiti UniFi Access Point - UAP-U6-MESH | $300.00 | $2,400.00 |
| 8 | Ubiquiti 60GHz Wave | $299.00 | $2,392.00 |
| 8 | Outdoor enclosure | $125.00 | $1,000.00 |
| 3 | Ubiquiti 60Ghz WAVE AP | $599.00 | $1,797.00 |
| 8 | Access Point Tripod and Mounting Hardware | $175.00 | $1,400.00 |
| 30 | Labor for Installation of Access Points | $175.00 | $5,250.00 |
| 1 | Consumables | $125.00 | $125.00 |
| 1 | MikroTik Router - RB5009 | $399.00 | $399.00 |
| 5 | Labor for Connecting and Splicing to Fiber Circuit | $225.00 | $1,125.00 |
| 6 | Network Programming and Optimization | $275.00 | $1,650.00 |
| | | **Total** | **$17,538.00** |

This agreement includes infrastructure as a service which will include all technical support, equipment maintenance, equipment upgrades and any equipment replacements for a cost of $87.50 per month per access point. This agreement consists of 8 access points but if additional access points are desired to be added it can be accomplished by paying for the labor and equipment upfront while also adding an additional $87.50 per access point added to the MRC.

| | **Monthly Recurring Charge (MRC)** | |
|---|---|---|
| | Network Management and Internet Connectivity | **$700/month** |

AREA TO BE SERVED

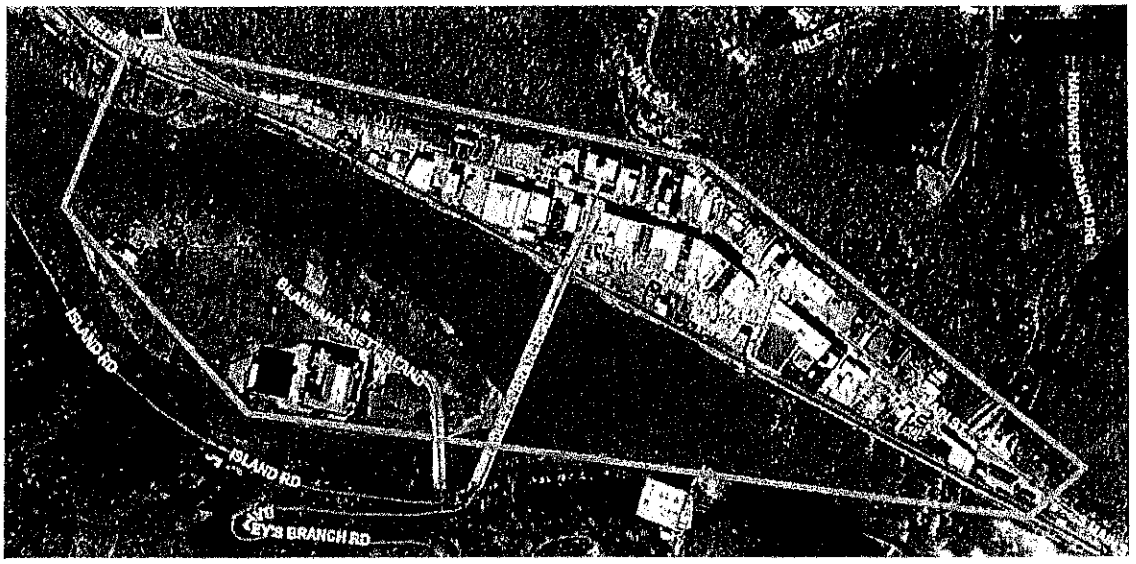



**Figure 2: Access Point Location for Marshall WiFi Project**

PORTAL ENVIRONMENT

A unique portal environment will be created specifically for the Downtown Marshall WiFi project. The WiFi portal will define user policy.

SUPPORT

We have a 24/7 customer support staff which provides a Tier 3 support matrix. Marshall Wifi project will enable greater connectivity and flexibility for the user experience, and an all-encompassing service solution which will be provided by a layered Tier 1, Tier 2 and Tier 3 support matrix.

The three-tier customer service matrix is outlined by Tier 1, Tier 2, and Tier 3. Tier 1 support will consist of the following support: record the issue, support general connectivity issues, any physical connectivity issues, device location online, verification of site operations and functionality, basic computer troubleshooting, and tech support. The Tier 1 technical support will be 24 hrs a day, 7 days a week. The Tier 2 support will consist of the following support: Escalation of any Tier 1 support calls, escalation of any network infrastructure issues, any latency issues, Network congestion, and any hardware issues. The Tier 2 support team will be 8 am-10 pm, 7 days a week. Tier 3 support will consist of the following support: Escalation of any Tier 1 or Tier 2 support calls, network saturation issues, Routing issues, network troubleshooting, network design, and network functionality. The Tier 3 support team will be available M-F, 8 am-6 pm.

STAFFING

We are local to Western North Carolina and headquartered in Asheville, NC. We have thirty-seven (37)

team members all of which are local to the area, which includes Field Technicians, Engineering Staff, Administrative and Customer Service staff. This project would be start to finish performed by our internal team.

### SERVICE STANDARDS

Skyrunner will be offering speeds with a nominal WiFI connection of 50Mbps for download and 50Mbps for upload per user within the Marshall Downtown corridor as outlined by this project, refer to figure 2 for Access Point locations. The Minimum connection for all users will be 10Mbps for Download and 5Mbps for upload.

### NETWORK MANAGEMENT

Skyrunner will provide full network management, network maintenance and Network Administration for as long as the recurring monthly costs are paid in the amount $700/Month.

## AREAS OF COOPERATION

Our intentions are to coordinate with the local building owners and businesses to gain access to the building structures for access point installation and power for the devices. If coordination is not possible or able to be obtained, we would need the cooperation of the Town for the following areas:

**Resources and facilities:** We are requesting cooperation with access to the Town of Marshall Street Light poles, sidewalk light poles and/or pole attachments in the case we are unable to obtain building access for local businesses and building owners. We are also requesting cooperation with obtaining and supplying power at the pole or street/sidewalk light poles locations. In the case, a Town asset is used for the WiFi installation, we are requesting cooperation for mounting location approval.

**Regulatory environment:** We are requesting cooperation with any Town or county approvals or permitting for the WiFI project deployment. The cost of permitting is not included in this agreement but we do not expect any permitting requirements.

**Contracting issues:**

a. Intellectual property - The network topology and infrastructure is considered Skyrunner IP and will remain confidential. Skyrunner will manage all maintenance and network access for the WiFi deployment and will retain all administrative functions for the WiFI network.

b. Insurance - Skyrunner carries the following coverages:

- Comprehensive general liability coverage;
- Workers' Compensation coverage with at least minimum statutory limits;
- Comprehensive automobile liability for owned, hired, and non-owned vehicles.

In no case shall there be any lapse in the specified coverage. Skyrunner, Inc. shall require its subcontractors, if any, to carry Statutory Workers' Compensation coverage, including

employer's liability and comprehensive general and automobile liability insurance in the amounts specified above. All of Skyrunner, Inc.'s subcontractors shall comply with the provisions of this section.

c. Indemnities - The individual User is responsible for all actions it takes in connection with its use of the Service. As a condition of the Service, Town of Marshall agrees to indemnify and hold harmless Skyrunner, Inc., and its officers, employees, agents, and shareholders from any claim or cause of action of any third party from any liability for damages, injury to, or death of any person caused by such use.

d. Warranties - All labor and equipment will be warrantied for 1 yr from the date of project completion.

Infrastructure as a service will provide a warranty which includes all labor and materials for all the maintenance, repair, upgrade and replacement of the equipment and network for the duration of the MRC.

e. Dispute resolution - If a dispute arises out of or relates to this agreement, or the breach thereof, and if the dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by mediation administered by a Certified Mediator under its Commercial Mediation Procedures before resorting to arbitration, or some other dispute resolution procedure.

If the dispute cannot be settled through negotiation or mediation, the parties agree to settle the dispute by final and binding Arbitration. In the event arbitration is required, all claims and disputes arising under or relating to this Agreement are to be settled by binding arbitration in Asheville, North Carolina or another location mutually agreeable to the parties. The arbitration shall be conducted by one (1) arbitrator on a confidential basis pursuant to the Commercial Arbitration Rules of the American Arbitration Association. Any decision or award as a result of any such arbitration proceeding shall be in writing and shall provide an explanation for all conclusions of law and fact and shall include the assessment of costs, expenses, and reasonable attorneys' fees. Any such arbitration shall be conducted by an arbitrator experienced in telecommunications matters and the internet service provider industry or proper legal experience required for arbitrator and shall include a written record of the arbitration hearing. The parties reserve the right to object to any individual who shall be employed by or affiliated with a competing organization or entity. An award of arbitration may be confirmed in a court of competent jurisdiction. Nothing in this paragraph shall prevent a party from seeking injunctive relief from any state or federal court located in Asheville, North Carolina. The parties consent to the exclusive jurisdiction and venue of such courts with respect to any matter not within the arbitrator's jurisdiction.

[SIGNATURE PAGE FOLLOWS]

| Skyrunner Inc. | Town of Marshall |
|---|---|
| Signature: _____ | Signature: _____ |
| Name: _____ | Name: _____ |
| Title: _____ | Title: _____ |
| Date: _____ | Date: _____ |

**Madison County**

Signature: [signature]

Name: Matt Wechtel

Title: Chairman

Date: June 25, 2024

**CONTRACT ADDENDUM**
**FOR CONTRACTS WITH ANY DEPARTMENT OF**
**MADISON COUNTY GOVERNMENT**

CONTRACTOR: Skyrunner

COUNTY DEPARTMENT: ED

SUBJECT OF CONTRACT: Marshall Downtown W.fi

DATE/TERM OF CONTRACT: June 25 2024

**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: Chair

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

By: _____
Madison County Finance Officer

STATE OF NORTH CAROLINA

**MEMORANDUM OF UNDERSTANDING**

COUNTY OF MADISON

**THIS MEMORANDUM OF UNDERSTANDING** is made and entered into this the 27th day of June, 2024, by and between **THE MADISON COUNTY BOARD OF EDUCATION,** a body politic and corporate, (hereinafter "School Board") and **MADISON COUNTY,** a body politic and corporate, (hereinafter "County"); thus

**W I T N E S S E T H:**

**THAT WHEREAS,** School Board is the owner of a tract of land shown and delineated on a survey recorded of record at Madison County Plat Book 10, Page 469, which delineates two (2) parcels of land, one consisting of a 1.24 acres tract of land (hereinafter "School Board Land") and a tract of land situated on the south side of the School Board Land containing 1.10 acres and being designated as Lot "B" (hereinafter "School Board Retained Land"); and

**WHEREAS,** the County is the owner of a tract of land containing 1.33 acres as the same is shown and delineated on a survey recorded at Madison County Plat Book 10, Page 578, (hereinafter County Land"); and

**WHEREAS,** the parties hereto have agreed for an exchange of the School Board Land and the County Land, each with the other, as authorized under NCGS §160A-274; and

**WHEREAS,** ancillary to said exchange the School Board and the County desire to set forth in this Memorandum of Understanding certain terms and conditions which the parties hereto contemplate and agree each party, their heirs and assigns, shall perform and the purpose of this Agreement is to memorialize the understanding and agreement.

**NOW, THEREFORE,** in consideration of the above-stated exchange, the School Board and the County, and their respective heirs and assigns, agree to the following terms:

1) The County will construct and locate a privacy fence eight (8) feet in height along the boundary between the School Land and the School Retained Land that is located at least four (4) feet on the North side of the boundary between the respective properties;

2) In the event that construction occurs on the School Land, the County shall construct a separate construction entrance for construction vehicles to utilize and all construction vehicles shall use said construction entrance and not use Carolina Lane;

3) The County will use its best efforts to widen Carolina Lane as presently it is difficult for vehicles to traverse with oncoming traffic and additional vehicles will only exasperate the issue;

4) The School Board and County further understand that the School Board will be unable to relocate its facility located on the School Board's Retained Land until such time as the School Board has a new Pre-K facility.

5) It is the intent of the Parties for the School Board to convey the School Board's Retained Land to the County once the construction of a new preschool facility is complete. To this end, the County shall either fund, or assist the School Board in acquiring funding, for the construction of a new Pre-School facility.

6) The County and School Board further understand that the School Board may in the future locate a new Pre-K building on the County Land. Given that said project may occur sometime in the future, there is some concern that the County Land may not be suitable or appropriate for said Pre-K building. In the event that the County Land proves unsuitable for said Pre-K building, the County will use its best efforts to locate and provide to the School Board a suitable tract of land from its inventory of surplus property and will propose to exchange with the School Board that suitable tract of land for the County tract of land exchanged herein.

7) If the County is unable to use the School Board Land for its intended purpose of economic development within the next twelve (12) months, it will reconvey the School Board Land back to the School Board and the School Board will reconvey any land it received in exchange for the School Board Land.

**IN WITNESS WHEREOF,** School Board and County set their hand and seals, this the day and year first above written.

**MADISON COUNTY BOARD OF EDUCATION**

_____**(SEAL)**
**Chairman/Vice-Chairman**

**ATTEST:**

_____**(SEAL)**

**MADISON COUNTY**

_____(SEAL)
**Chairman/Vice-Chairman**

**ATTEST:**

_____(SEAL)

Attachment 8.2

**STATE OF NORTH CAROLINA**

**RESOLUTION**

**COUNTY OF MADISON**

**WHEREAS**, by authority of N.C.G.S. 160A-209, counties may declare surplus any real property owned by the County and propose to accept an offer made to begin the Negotiated Offer, Advertisement and Upset Bid process; and

**WHEREAS**, Madison County owns a parcel of land, being Tract A as shown on that Plat recorded in the office of the Register of Deeds of Madison County, NC, deed book 10, page 469, as being the same parcel that is located on Carolina Lane, Marshall, NC 28753; and

**WHEREAS**, Madison County is not in need of the property and desires to declare the parcel as surplus as included in "Attachment A"; and

**WHEREAS**, Madison County desires to consider offers and advertise the accepted offer for a period of ten days and receive qualifying negotiated offers in accordance with N.C.G.S. 160-209 for sale by negotiated offer, advertisement, and upset bid; and

**WHEREAS**, Madison County Board of Commissioners reserves the right to reject all bids received;

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Commissioners of the County of Madison that the property identified above is declared surplus.

This the 25th day of June 2024.

MADISON COUNTY

Matt Wechtel, Chairman
Board of Commissioners

ATTEST:

Mandy Bradley, Clerk
Board of Commissioners

# "Attachment A"

