

STATE OF ALABAMA)
COUNTY OF BALDWIN)

AGREEMENT

THIS AGREEMENT ("Agreement") is entered into between THE BALDWIN COUNTY LIBRARY COOPERATIVE, INC., an Alabama non-profit corporation (hereinafter referred to as the "COUNTY LIBRARY COOPERATIVE"), and the BALDWIN COUNTY COMMISSION, the honorable county governing body of Baldwin County, Alabama (hereinafter referred to as "COMMISSION") and is effective the date last executed below.

WHEREAS, the COUNTY LIBRARY COOPERATIVE is an Alabama non-profit corporation organized to, among other things enumerated in its governing Articles of Incorporation, provide quality library service to every individual in Baldwin County through the provision of general library services including, but not limited to, the Bookmobile, outreach services and support and encouragement for the county's many municipal libraries; and

WHEREAS, while the COUNTY LIBRARY COOPERATIVE remains organized as an Alabama non-profit corporation, its governing By-laws provide that it shall have those duties and responsibilities authorized by Section 11-90-1, et seq., of the Code of Alabama (1975), which Alabama law authorizes the formation of Free Public Libraries, both municipal and county, and that said Alabama law is utilized in the appointment of its 5 member Board of Trustees, which the COMMISSION is authorized to seat by appointment; and

WHEREAS, specifically, Section 11-90-1 of the Code of Alabama (1975) provides as follows: "The county commissions of the counties of this state and municipalities, through their governing bodies, may establish and maintain or aid in establishing and maintaining free public libraries for the use of the citizens of the respective counties or municipalities, either separately or in connection with public schools, and to that end may accept gifts, donations, and bequests of land, buildings or money therefor and may make appropriations from the county or municipal treasury in support thereof in such sums as they may deem proper...;" and

WHEREAS, the COUNTY LIBRARY COOPERATIVE receives supplemental state aid by the Alabama Public Library Service to support and improve the COUNTY LIBRARY COOPERATIVE's public pursuits in Baldwin County, Alabama; and

WHEREAS, as authorized by Section 11-90-1 of the Code of Alabama (1975), the COMMISSION, by and through its Baldwin County Fiscal Year 2023-2024 Budget, approved a one-time total funding appropriation of One-hundred Forty Thousand Dollars (\$140,000.00), to match funds appropriated to the COUNTY LIBRARY COOPERATIVE by the Alabama Public Library Service related to supplemental state aid enjoyed by said COUNTY LIBRARY COOPERATIVE; and

WHEREAS, the COMMISSION makes the aforesaid funding assistance to the COUNTY LIBRARY COOPERATIVE in providing quality library service to every individual in Baldwin County through the provision of general library services including, but not limited to, the Bookmobile, outreach services and support and encouragement for the county's many municipal libraries, and to continue its general mission to aid the network of Free Public Libraries throughout all Baldwin County, Alabama, both municipal and county; and

WHEREAS, the COMMISSION makes the aforesaid funding assistance and other assistance

to the COUNTY LIBRARY COOPERATIVE respecting that the Supreme Court of the State of Alabama has ruled that Section 94 of the Constitution of Alabama 1901, as amended, is not violated when a public entity donates money or other thing of value in aid of a private individual or corporation if a public purpose is served. *Slawson v. Alabama Forestry Commission*, 631 So. 2d 953 (Ala. 1994).

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto AGREE as follows:

1. The above recitals and statements are incorporated as part of this Agreement shall have the effect and enforceability as all other provisions hereof.
2. The COUNTY LIBRARY COOPERATIVE shall continue the public purpose of providing quality library service to every individual in Baldwin County through the provision of general library services including, but not limited to, the Bookmobile, outreach services and support and encouragement for the county's many municipal libraries which collectively accomplishes its general mission of aiding the network of Free Public Libraries throughout all Baldwin County, Alabama, both municipal and county.
3. All COUNTY LIBRARY COOPERATIVE facilities, services, membership, and activities shall be made available to the general public.
4. The COUNTY LIBRARY COOPERATIVE shall have a nondiscriminatory policy, and its facilities, services, membership, and activities shall be available to the general public regardless of race, age, sex, disability, or religion.
5. The COMMISSION shall assist the COUNTY LIBRARY COOPERATIVE by providing a one-time total funding appropriation to the COUNTY LIBRARY COOPERATIVE of One-hundred Forty Thousand Dollars (\$140,000.00), to be distributed in four, equal quarterly installments of \$35,000 each in October, January, April, and July, and to be used by the COUNTY LIBRARY COOPERATIVE to match funds appropriated to the COUNTY LIBRARY COOPERATIVE by the Alabama Public Library Service related to supplemental state aid enjoyed by said COUNTY LIBRARY COOPERATIVE.
6. The COUNTY LIBRARY COOPERATIVE expressly agrees not to use the one-time total funding appropriation outside the specific purposes set forth in this Agreement, and the COUNTY LIBRARY COOPERATIVE further agrees not to use the one-time total funding appropriation set forth in Section 5 of this Agreement, to aid any private or individual benefit. It being expressly understood that the one-time total funding appropriation set forth in Section 5 of this Agreement, as provided by the COMMISSION, shall be utilized by the COUNTY LIBRARY COOPERATIVE in a manner consistent with this Agreement.
7. This Agreement and the relationship created hereby does not in any manner create, imply, or otherwise vest any authority in the COUNTY LIBRARY COOPERATIVE on behalf of the COMMISSION. Furthermore, this Agreement hereby expressly forbids the creation of an agency relationship or any action that would create or imply that the COUNTY LIBRARY COOPERATIVE is an agent of the COMMISSION.

8. To the fullest extent allowed by law, the COUNTY LIBRARY COOPERATIVE shall fully indemnify and hold the COMMISSION, its County Commissioners, departments, employees, supervisors, insurer, agents, representatives and attorneys (for purposes of this Section 8 referred to collectively as "COMMISSION") completely harmless from any and all claims, demands, notices, violations, findings, actions or orders of whatsoever kind or character which may arise from, or which are in any way related to, the work done and duties or obligations performed by the COUNTY LIBRARY COOPERATIVE or the COMMISSION pursuant to this Agreement, including, without limitation, attorney fees and legal expenses and costs incurred as a result of the COMMISSION enforcing, defending or complying with this Agreement, or otherwise addressing or defending any actions or claims related in any way to this Agreement. The provisions of this Section 8 and the rights, duties and obligations set forth herein shall survive the expiration or termination of this Agreement.
9. The COUNTY LIBRARY COOPERATIVE shall ensure that all materials publicizing or resulting from the funding assistance as provided for by this Agreement shall contain an acknowledgment of the COMMISSION's assistance, with said acknowledgment of support made through the use of the following comparable footnote: "This activity was supported by the Baldwin County Commission."
10. Notwithstanding anything written herein to the contrary, all commitments made herein by the COMMISSION are subject to the availability of funds. If at any time prior to the conveyance of the one-time funding appropriation, or any quarterly installment thereof, the COMMISSION determines that the subject funds are not available, then the COMMISSION shall no longer be obligated or required to provide such one-time funding appropriation, or any quarterly installment thereof.
11. The COUNTY LIBRARY COOPERATIVE agrees, as a condition of receiving the one-time funding appropriation referenced in Section 5 this Agreement, to:
 - a. Supply to the COMMISSION, within 30 days from a written request to do so, all applicable data that is necessary for the COMMISSION to ensure the proper expenditure of the subject funding appropriation and funding assistance.
 - b. File with the COMMISSION no later than June 10, 2024, a written report of its activities for the preceding period which commenced on October 1, 2023, a copy of an annual report that includes the appropriation period, and a copy of the most recently audited financial statements (audited financial statements must be from within the last two years, i.e. year 2022 or 2023, and should include an independent auditor's report, statement of financial position, statement of activities, statement of cash flows, and notes to the financial statements) to ensure the proper expenditure of the subject funding appropriation.
12. This Agreement, provided in the form as one (1) original instrument for the records of the COUNTY LIBRARY COOPERATIVE and one (1) original instrument for the records of the COMMISSION, represents the entire terms and conditions of the Agreement between the COMMISSION and the COUNTY LIBRARY COOPERATIVE. It shall be necessary to account for only one (1) such instrument or counterpart in proving this Agreement.

13. This Agreement shall be in effect for a period of twelve (12) months, or such shorter time as may be determined by the COMMISSION, commencing October 1, 2023, and expiring September 30, 2024, and may be amended by written amendment executed by the COMMISSION and the COUNTY LIBRARY COOPERATIVE. The COMMISSION shall have the right to terminate this Agreement, with or without cause or reason, by giving thirty (30) days written notice to the COUNTY LIBRARY COOPERATIVE.
13. This Agreement shall be deemed to have been made in the State of Alabama, and the validity of the same, its construction, interpretation, enforcement, and the rights of the parties hereunder, shall be determined under, governed by and construed in accordance with the substantive laws of the State of Alabama, without giving effect to any choice of law provisions arising thereunder. The proper venue for any action arising hereunder or relating to the subject matter of this Agreement shall lie solely in Baldwin County, Alabama.
14. Should the COMMISSION employ an attorney or attorneys to enforce any of the terms and conditions hereof, the COMMISSION shall be entitled to recover all reasonable costs, damages, and expenses, including reasonable attorneys' fees, expended, or incurred in connection therewith.
15. If any part or parts of this Agreement shall be held unenforceable for any reason, the remainder of this Agreement shall continue in full force and effect. If any provision of this Agreement is deemed invalid or unenforceable by any court of competent jurisdiction, and if limiting such provision would make the provision valid, then such provision shall be deemed to be construed also limited.

IN WITNESS WHEREOF, the parties have affixed their hands and seals this date, as follows:

[Signature pages to follow]

BALDWIN COUNTY COMMISSION

By: BILLIE JO UNDERWOOD

As Its: Chairman

Date: _____

ATTEST:

ROGER H. RENDLEMAN

County Administrator

STATE OF ALABAMA)

COUNTY OF BALDWIN)

I, the undersigned authority, a Notary Public, in and for Baldwin County, Alabama, and the State of Alabama, hereby certify that BILLIE JO UNDERWOOD, as Chairman of the Baldwin County Commission, and ROGER H. RENDLEMAN, as County Administrator of the Baldwin County Commission, whose names are signed to the foregoing instrument and who are known to me, acknowledged before me and on this day that, being informed of the contents of said instrument, they, as such Chairman and County Administrator of the Baldwin County Commission, and with full authority, executed the same voluntarily on the day the same bears date for and as an act of said Baldwin County Commission.

Given under my hand and seal this the _____ day of _____, 2023.

NOTARY PUBLIC, BALDWIN COUNTY, ALABAMA

My Commission expires: _____

BALDWIN COUNTY LIBRARY COOPERATIVE, INC.
PO Box 399
Robertsdale, Alabama 36567

By: LOLITA BOYKIN
As Its: Chairperson
Date: _____

STATE OF ALABAMA)

COUNTY OF BALDWIN)

I, the undersigned authority, a Notary Public, in and for _____ County, Alabama, and the State of Alabama, hereby certify that LOLITA BOYKIN, as Chairman of the Board of Trustees of the Baldwin County Library Cooperative, Inc., whose name is signed to the foregoing instrument and who is known to me, acknowledged before me and on this day that, being informed of the contents of said instrument, LOLITA BOYKIN, as such Chairman of the Board of Trustees of the Baldwin County Library Cooperative, Inc., and with full authority, executed the same voluntarily on the day the same bears date for and as an act of said Baldwin County Library Cooperative, Inc.

GIVEN under my hand and seal this the _____ day of _____, 2023.

NOTARY PUBLIC

My Commission expires: _____