

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE: January 6, 2025

SUBJECT: NCFSWC Grant Award for Hydraulic Post Driver Package

PRESENTER: Jonathan Wallin, Soil & Water Director

ATTACHMENTS: Yes:
1) NCFSWC Grant Agreement

SUMMARY OF REQUEST:

Henderson County Soil & Water Conservation District has been awarded a grant from the NC Foundation for Soil & Water Conservation. The grant's purpose is to provide the District with a hydraulic post driver, a utility trailer, and a t-post driver worth a total of \$10,037.50. This post driver package is intended to be loaned out to Henderson County farmers, as well as farmers in neighboring Districts, to assist them in improving soil health, increasing on-farm efficiencies, and raising profit margins. The more specific and immediate intention of the grant is to assist livestock farmers with replacing fencing that was destroyed due to Tropical Storm Helene. In accepting the equipment, Henderson County would be committing to keep the equipment in good working order for five years. The grant also requires a 30% in-kind match, which will be fulfilled by Henderson County Soil & Water through maintenance of the equipment, coordinating loans to other Districts, and reporting on use of the equipment from all users. This in-kind match will require no additional County funds, as it will be absorbed by the current budget.

BOARD ACTION REQUESTED:

The Board is requested to accept the receipt of the Post Driver Package equipment provided through the NCFSWC grant.

Suggested Motion:

I move the Board approve the acceptance of the NCFSWC grant and its related equipment.

NCFSWC Grant Agreement

This Grant Agreement is provided to assure the NC Foundation for Soil and Water Conservation, Inc. (Foundation) that the awarded Grant meets all requirements of the Tax Reform Act of 1969 including amendments. A signed Grant Agreement indicates the Grantee accepts the Grant Agreement conditions.

Name of Grantee: Henderson Soil and Water Conservation District (District)

Equipment Project Name: Soil Health For Farmland Preservation

Equipment Sub-Project -name: WNC Hurricane Helene Emergency Funding

Equipment Project #: TTF23 SH –Henderson -Post Driver Package #4

Equipment Amount Approved: \$ 10,037.50

Grantee Cash Match Required (min 30% match): \$ 0

Grantee In-Kind Match Required (min 30% match): \$3,024 (see pages 5 &6)

Date Approved by the Foundation: Oct. 24, 2024

Purpose of Grant: Provide support to the Soil and Water Conservation District for to fund equipment that increases technical capacity within Soil and Water Conservation Districts (Districts), creating a greater suite of offerings available to farmers to support their on-farm goals: improving soil health, increasing on-farm efficiencies, and raising their profit margin. Farms that are profitable will continue to farm and become more resilient to development pressures, thereby preserving working lands into the future. Additionally, by building out the skillsets within the Districts it ensures District relevance into the future. Outcomes will include a greater number of landowners that have a clear path forward to maintain profitable farm operations thereby promoting multiple pathways for the preservation of North Carolina’s working lands.

The grant is conditioned on the Foundation paying no more than the funds awarded as described later in the Grant Agreement.

Once purchased, the Equipment is owned solely by the Soil and Water Conservation District as long as conditions of the Grant Agreement are met. Failure to comply will impact the District’s ability to participate in future Foundation programs.

Start Date of the Project: October 24, 2024

Deadline for Completion of the Project and Invoice Submission: August 31, 2026

Deadline for Final Reporting of the Project: September 30, 2031

The Grant Agreement is accepted for implementation by the Foundation and the Grantee at the appropriate time and under the following conditions:

1. Grantee confirms that it is a soil and water conservation district or other governmental agency; or that the Internal Revenue Service has determined that it is an organization described in section 501(c)(3) of the Internal Revenue Code and is a publicly supported organization and not a private foundation, and that determination has not been revoked. Grantee will promptly notify the Foundation if the Grantee's tax-exempt status is revoked or modified.
2. The Equipment will be used for the purpose specifically set forth under Purpose of Grant. Any condition set forth in the Purpose of Grant or in the Grant Agreement shall take precedence over any conflicting provision in the Grantee proposal.
3. No funds generated from the Equipment will be used to carry out propaganda or otherwise attempt to influence legislation, the outcome of any public election, or to carry on directly or indirectly a voter registration drive. Grantee will not use any of the funds generated from the Equipment to implement a project that does not comply with the Foundation's approved operations under Sections 501(c)(3) and 170(c)(2) of the Internal Revenue Code. Grantee agrees to not participate in any transaction using the Grant that subjects the Foundation to excise tax liability as stated in Internal Revenue Code Section 4958.
4. The Equipment is not approved for transmittal to any other entity or person. Grantee accepts and will retain full control of the Equipment and full responsibility for compliance with the Grant Agreement's terms and conditions.
5. Grantee is required to keep the Equipment in good working order. If within (5) years of the contract end date between the Foundation and NC Tobacco Trust Fund Commission (10/31/2026), equipment purchased with more than \$5,000 of grant funds is no longer being used for the purpose of the grant, Grantee must notify the Foundation, who will then notify the NC Tobacco Trust Fund Commission.

Upon consultation with the NC Tobacco Trust Fund Commission, Grantee may be advised to do one of the following:

- a) Sell the equipment at current market value rates and return the proceeds to the NC Tobacco Trust Fund Commission within 30 days of the sale date along with all the sale documentation.
- b) If replacement equipment is deemed necessary to meet the grant's goals, Grantee may sell the current equipment and purchase replacement equipment with the proceeds and provide related sale and purchase documentation to the NC Tobacco Trust Fund Commission; or,
- c) Transfer the equipment to NC Tobacco Trust Fund Commission-supported and/or mission-oriented entity which can utilize the equipment to satisfy its project goals.

6. Grantee agrees to be solely responsible for and possess, operate, or have approved operators, maintain, repair, and replace the Equipment according to the timeline provided in #5. Grantee agrees that it shall, at its own cost and expense, procure and maintain, at all times during the term of this Grant Agreement, (a) liability insurance covering the operation of the Equipment with a per injury or damage limit of at least \$500,000.00 and an aggregate limit of at least \$1,000,000.00 or in such greater amounts as may be required by applicable law, (b) coverage for loss or damage of the Equipment sufficient to replace the Equipment, and (c) coverage for the indemnity provided herein. Grantee shall furnish a certificate of insurance to the Foundation within thirty (30) days of the date of this Grant Agreement.
7. Grantee agrees to not discriminate based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family / parental status and provide equal access to the Equipment for any of the purposes for which this Grant Agreement is awarded.
8. Conservation District Board Members and District Staff will avoid any and all conflicts of interest, or the appearance of a conflict of interest, in all decisions and actions concerning management of the Equipment.
9. All project related records, including funds management (if applicable) and maintenance records, will be maintained by Grantee until September 30, 2031 (5 years after close of project). Such records will be made available to the Foundation or its representatives(s) upon request. If the Equipment is decommissioned after said date, the Grantee's Record Retention Policy shall provide guidance for additional record stewardship.
10. Grantee agrees to include the following statement in all publicity generated materials, including online / social media outlets; "This **Soil Health For Farmland Preservation Program** received support from the NC Tobacco Trust Fund Commission and the NC Foundation for Soil and Water Conservation". Grantee will be required to include funder recognition on equipment funded through this award, such as stickers or labels that will be supplied by the Foundation.
11. **NO ACTION OR INACTION BY THE FOUNDATION, INCLUDING THE FOUNDATION'S PAYMENT OF THE GRANT TO GRANTEE SHALL ALTER ANY OBLIGATIONS OR RESPONSIBILITIES OF GRANTEE HEREUNDER, NOR SHALL SUCH GRANT (1) CREATE ANY WARRANTIES ON THE PART OF THE FOUNDATION AS TO THE DESIGN, SUITABILITY, CAPABILITY, MARKETABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR EXPECTED PERFORMANCE OF THE EQUIPMENT OR THE FEASIBILITY OF THE PURPOSE OF GRANT OR (2) IMPOSE ANY LIABILITY OR RESPONSIBILITY WHATSOEVER UPON THE FOUNDATION WITH RESPECT TO LATENT OR PATENT DEFECTS IN OR RELATING TO THE EQUIPMENT, INCLUDING DEFECTS RELATING TO ENGINEERING MATTERS, STRUCTURAL DESIGN MATTERS AND THE QUALITY OR SUITABILITY OF MATERIALS. IN ADDITION, GRANTEE SHALL BE SOLELY RESPONSIBLE, AND THE FOUNDATION SHALL HAVE NO LIABILITY WHATSOEVER, FOR (A) THE COST AND EXPENSE OF THE PURCHASE OF THE EQUIPMENT, EXCEPT FOR THE GRANT IN ACCORDANCE WITH THE TERMS HEREOF, (B) THE COST AND EXPENSE OF OPERATION, REPAIR, MAINTENANCE, OR REPLACEMENT OF THE EQUIPMENT, (C) PROPERTY, SALES, USE, OR REGISTRATION TAXES OR FEES WITH**

RESPECT TO THE PREMISES OR EQUIPMENT, (D) ANY ACCIDENT OR OTHER OCCURRENCE CAUSING OR INFLECTING LOSS, INJURY, DEATH OR DAMAGE TO ANY PERSON OR PROPERTY (INCLUDING TO THE PERSON OR PROPERTY OF GRANTEE AND ITS EMPLOYEES, AGENTS, OR INVITEES), WHEN SUCH LOSS, INJURY, DEATH OR DAMAGES ARISES OUT OF, OR IN CONNECTION WITH, GRANTEE'S PERFORMANCE OR NONPERFORMANCE OF THIS AGREEMENT, GRANTEE'S (OR ANY OF GRANTEE'S DESIGNEES') OPERATION OF THE EQUIPMENT, OR THE ACTION (OR FAILURE TO ACT) BY GRANTEE OR GRANTEE'S EMPLOYEES, AGENTS OR INVITEES, (E) ANY BREACH BY GRANTEE OF ANY PROVISION OR REQUIREMENT OF APPLICABLE LAW RELATED TO PURCHASE, OPERATION, REPAIR, MAINTENANCE, OR REPLACEMENT OF THE EQUIPMENT, (F) ANY BREACH BY GRANTEE OF ANY PROVISIONS OF THE GRANT AGREEMENT BETWEEN THE FOUNDATION AND THE NC TOBACCO TRUST FUND COMMISSION, (G) SUPERVISION OR ADEQUATE TRAINING OF GRANTEE'S EMPLOYEES, AGENTS, INVITEES, OR DESIGNEES IN THE PURCHASE, OPERATION, REPAIR, MAINTENANCE, OR REPLACEMENT OF THE EQUIPMENT, OR (H) ANY ENVIRONMENTAL, AVIATION, OR NUISANCE ISSUE (WHETHER RELATING TO ODOR, TRESPASS, OR OTHERWISE) RELATED TO THE EQUIPMENT, GRANTEE'S OPERATION AND MAINTENANCE OF THE EQUIPMENT, OR THE PREMISES FROM WHICH GRANTEE OPERATES AND MAINTAINS THE EQUIPMENT.

12. Grantee shall indemnify, defend, and hold harmless the Foundation and its affiliates and their respective officials, officers, directors, employees, and agents from and against any and all claims, costs, liabilities, losses, damages and expenses (including reasonable attorneys' fees and expenses) occasioned by, arising out of, or related to (i) Grantee's breach of this Agreement, (ii) any accident or other occurrence causing or inflicting loss, injury, death or damage to any person or property (including to the person or property of Grantee and its employees, agents or invitees), when such loss, injury, death or damage arises out of, or in connection with, Grantee's performance or nonperformance of this Agreement, Grantee's (or Grantee's designees', employees', agents', or invitees') operation of the Equipment, or the action (or failure to act) by Grantee or Grantee's employees, agents or invitees, (iii) Grantee's breach of any provisions or requirements of applicable law, including federal and state aviation laws, (iv) Grantee's breach of any provisions of the Grant Agreement between the Foundation and the NC Tobacco Trust Fund Commission, (v) any environmental, aviation, or nuisance issue (whether relating to odor, trespass, or otherwise) related to the Equipment, Grantee's operation or maintenance of the Equipment, or the or the premises from which Grantee operates and maintains the Equipment, or (vi) any of the matters listed as Grantee's sole responsibility under Section 11 hereof. Notwithstanding the foregoing, nothing in this Section 12 shall be deemed to extend Grantee's indemnification obligations beyond the manner and maximum extent allowed by North Carolina law.
13. All reporting and documentation requirements must be met by Grantee from any previous Foundation Grant Programs.
14. Grantee agrees to comply with any addendums signed by both parties.

Grant Implementation and Reporting Requirements

Grantee applied to the Foundation for the Soil Health For Farmland Preservation Program.

Grantee application was accepted for funding by Foundation Staff. Grantee agrees to the following implementation steps:

1. Grantee, as Host District, will develop an Equipment Business Plan (i.e.: rental agreement, how you plan to use/rent out the equipment) as requested by the Foundation.
2. Grantee secures appropriate signatures for this Grant Agreement and will return a copy by electronic methods. The Foundation will issue a fully executed Grant Agreement. Grantee will maintain an original copy of their respective signature page.
3. The Foundation will secure the invoice on behalf of the Grantee when multiple pieces of equipment are ordered from the same dealership and/or company; in said cases the Grantee will be notified.
4. The District is required to confirm a commitment to house and maintain the equipment. The Foundation will secure the invoice on behalf of the District due to emergency funding needs caused by Hurricane Helene damage. Before the purchase is made by the Foundation on behalf of the District, the District is required to agree to "host" the equipment as the District's In-kind match for funding.
5. **The Host District is required to share the use of the equipment with adjoining District's and their landowners, as needed. All requests by non-host Districts shall be honored unless the equipment is being used on another site. It is highly recommended the Host District keep a calendar to manage reservations.**
6. As an In-Kind match, the host District will be responsible for data collection (per survey to be provided), maintain equipment in good working condition, and coordinate transportation to adjoining Districts for landowner use. The host District will notify the Foundation of any maintenance or data collection issues as needed.
6. Grantee agrees to participate in any future data collection for program evaluation for 5 years after Equipment is purchased.

The Foundation will pay 100% of the Equipment cost pending availability of funds from the NC Tobacco Trust Fund. In no case will the Foundation be obligated to make a payment beyond the originally approved project Grant.

Grant Funding Details:

Category	Description
<p>Equipment Type: (to be shared)</p> <ol style="list-style-type: none"> 1. Post driver (for tractor or skid steer) 2. Tilt attachment for post driver 3. T-post driver 4. Trailer for towing equipment 	<p>Equipment cost for Foundation:</p> <p>Amount approved: \$10,037.50</p>
	<p>In-Kind Match by District (required):</p> <p>112 hours @ \$27 per hour = \$3,024</p> <ol style="list-style-type: none"> 1. Maintenance of equipment 2. Coordinate lending to other Districts 3. Reporting on use of equipment from all users

Reporting Requirements

Grantee will submit biannual Interim Reports to the Foundation by **July 1 and January 2** for five years from Equipment received date. Information will be submitted electronically via a link that will be provided.

Reporting data shall include but is not limited to type of use with the equipment (i.e. number of farms assisted, hurricane relief efforts, linear foot of livestock fencing installed, type of fencing, type of livestock, number of livestock, flooding assessments), acreage impacted, funds collected (if applicable), and field spot-checks performed.

Grant conditions must be met prior to the Foundation releasing equipment to District. The following documentation is needed:

1. Cover letter signed by chairperson requesting equipment and agreeing to in-kind match by the District.
2. Additional reporting required to retain equipment:
 - a. Electronic pictures of staff/landowners using equipment (jpeg or png formats only)
 - b. Descriptive captions for images of how the equipment is being used.
3. Final Report on Foundation approved form or through electronically provided form.

Certification of Agreement

The people signing the Grant Agreement certify they understand the purpose of the Grant and the contents of the Agreement and accept all terms and conditions. The signers certify they are the authorized officials to execute the Agreement. **The Agreement is in effect after all parties have signed.**

Grantee:

Andrew C Brannon
District Board of Supervisors Chairperson

Date: 12-9-2024

Greg O. Hoyt
District Board of Supervisors Officer

Date: 12/9/24

Foundation:

Board of Directors President

Date: _____

Executive Director

Date: _____