TOWN OF BLACK MOUNTAIN

Town Hall, 160 Midland Avenue, Black Mountain, NC 28711

Date: **September 13, 2021** Time: **6:00 p.m.** **Regular Session Agenda**

*The agenda and all related documentation may be accessed electronically via Wi-Fi in Town Hall. From your laptop or smartphone, access the Town's website at **www.townofblackmountain.org**. **Click** on **Town Government** and select **Mayor and Council** to download materials for all Town Council meetings.*

Conserve resources; print only when necessary.

The Town of Black Mountain is committed to providing accessible facilities, programs and services for all people in compliance with the American with Disabilities Act (ADA). Hearing assistive devices are available at the door. Should you need other assistance or accommodation for this meeting, please contact Town Clerk at 419-9310, or by email at townclerk@townofblackmountain.org
(828) 419-9300 / TDD (800) 735-2962

1. CALL TO ORDER

- Welcome
- Prayer – Pastor Chandler Ragland, Black Mountain United Methodist Church
- Pledge of Allegiance
- Announcements

2. PROCLAMATIONS, AWARDS & RECOGNITION

Proclamation in honor of Lt. Garrett Presnell

3. CITIZEN COMMENTS

*Individuals wishing to address the Council are asked to sign in at the entrance to the Council room, indicating the topic(s) or agenda item(s) you wish to discuss, so that the chair may group speakers according to topic. The chair will recognize individuals requesting to address the Council. **Comments by any one speaker shall be limited to three (3) minutes**.*

To send comments prior to the meeting, please call Town Hall at 828-419-9310 or email comments to Comments@townofblackmountain.org. The Clerk will compile them and present them to the Mayor for consideration.

4. COMMUNICATIONS FROM STAFF, COUNCILS, COMMISSIONS & AGENCIES

A. Planning Department Annual Report – Planning Director Jessica Trotman

5. CONSENT AGENDA

All items on the consent agenda are considered routine, to be enacted by one motion without discussion. If a member of the governing body requests discussion of an item, the item will be removed from the consent agenda and considered separately.

A. Adoption of Minutes

Motion: *To adopt the minutes of the August 9, 2021 Regular Session Meeting, the August 9, 2021 Closed Session Meeting, and the August 5, 2021 Agenda Meeting.*

B. Revision to the Town Purchasing Policy

Motion: *To approve the revised purchasing policy and the uniform guidance policy.*

C. Resolution **#R-21-20** supporting NCDOT to administer Ninth Street Bridge Replacement

Motion: *To approve the resolution as presented.*

D. Ninth Street Bridge Replacement Capital Project Fund Ordinance **#0-21-15**

Motion: *To approve as presented.*

E. Utility Billing Policy and Procedures

Motion: *To approve or deny the Utility Billing Policy and Procedures.*

F. Annexation Ordinance #O-20-20 Amendment

Motion: *To approve the ordinance amendment as presented.*

Consent Motion: *To approve Consent Items A-F as presented.*

6. CITIZEN COMMENTS

*The chair will recognize individuals requesting to address the Council regarding the specific **New Business or Unfinished Business items below**. Comments by any one **speaker shall be limited to three (3) minutes**.*
*If the topic you wish to discuss pertains to a **public hearing** scheduled for this meeting, please reserve your comment for the applicable public hearing.*

To send comments prior to the meeting, please call Town Hall at 828-419-9310 or email comments to Comments@townofblackmountain.org. The Clerk will compile and present written comments to the Mayor for consideration.

7. UNFINISHED BUSINESS

8. NEW BUSINESS

A. American Rescue Plan Professional Services Contract

Motion: *To approve contract for professional services.*

B. Sewer line Easement for Veteran's Park Bathrooms (PARTF)

Motion: *To approve or deny purchasing the easement.*

9. PUBLIC HEARING

The chair will recognize individuals requesting to address the Council regarding the specific topic of the public hearing. ***Public hearing comments by any on speaker shall be limited to ten (10) minutes****. The Mayor reserves the right to alter time limits and other rules of procedure at the beginning of each Public Hearing.*

10. COMMUNICATION FROM STAFF

A. Town Attorney – Ron Sneed

B. Town Manager – Josh Harrold

11. COMMUNICATION FROM MAYOR AND TOWN COUNCIL

12. ADJOURNMENT

Josh Harrold
Town Manager

PUBLIC NOTICE

BLACK MOUNTAIN TOWN COUNCIL

REGULAR SESSION MEETING

Monday, September 13, 2021 at 6:00 p.m.

The Black Mountain Town Council will meet for their monthly Regular Session Meeting on **Monday, September 13, 2021 at 6:00 p.m**. in the Board Room in the Town Hall Building, 160 Midland Avenue, Black Mountain, NC.

The meeting is open to the public. Masks are required.

Savannah M. Parrish
Savannah Parrish
Town Clerk

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Please visit www.townofblackmountain.org to obtain agenda packets and other meeting information.

Posted to the Town Bulletin Board 08/20/21

TOWN OF BLACK MOUNTAIN TOWN COUNCIL
AGENDA WORKSHOP AND SPECIAL MEETING MINUTES
August 5, 2021

THE BLACK MOUNTAIN TOWN COUNCIL held an agenda workshop and special call meeting on Thursday, August 5, 2021 at 5:00 p.m. in the board room of Town Hall, 160 Midland Avenue, Black Mountain, NC. The purpose of the meeting was to review the agenda for the regular monthly meeting scheduled for Monday, August 9, 2021 at 6:00 p.m.

1. CALL TO ORDER

Mayor Larry B. Harris called the meeting to order at 5:01 p.m. *with the following members present*:

Mayor Larry B. Harris
Vice Mayor Ryan Stone
Council Member Archie Pertiller
Council Member Pam King - absent
Council Member Doug Hay
Council Member Bill Christy

The following staff members were present:

Josh Harrold, Town Manager
Savannah Parrish, Assistant to Manager/ Town Clerk
Ron Sneed, Town Attorney

Mayor Larry Harris opened the meeting. Town Manager, Josh Harrold presented the proposed agenda to the Town Council.

There will be no presentations from boards, commissions, or staff.

Manager Josh Harrold presented each **Items 5A – 5J**, the consent agenda.

Manager Harrold briefly discussed Item **8A**, the discussion of the I-40 Interchange with North Carolina Department of Transportation. The original design is no longer an option, and the Council will need to choose a new design to move forward with the project. Mike Clark with North Carolina Department of Transportation will join the meeting to review all the options.

Manager Harrold continued to present the New Business and Public Hearing items with little discussion.

Town Attorney Ron Sneed gave an update on the Avadim bankruptcy.

Mayor Larry Harris led a discussion on masking and other COVID-19 protocols for Town employees. Mayor Harris recommended that the Council instruct the Manager to begin collecting vaccination data on Town employees, to get a better understanding of the safety issue. Mayor Harris asked the Council to consider instructing that Town employees who have not received the vaccine be required to wear a mask. He also suggested waiting for Buncombe County to issue their mandate, so that Black Mountain could either follow suit or make changes as the Council wishes.

There was some discussion concerning how to move forward. The Town Council mandated that members of the public, council members, and staff wear masks at Town Council meetings. The Town Manager will begin collecting COVID-19 vaccination data for employees.

There being no further discussion Mayor Larry B. Harris adjourned the meeting at 5:26 p.m.

ATTEST:

______________________________	______________________________
Savannah Parrish, Assistant to Manger/Town Clerk	Larry B. Harris, Mayor

TOWN OF BLACK MOUNTAIN

Town Hall, 160 Midland Avenue, Black Mountain, NC 28711

Date: **August 9, 2021** Time: **6:00 p.m.** **Regular Session Minutes**

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(828) 419-9300 / TDD (800) 735-2962

1. CALL TO ORDER

Mayor Larry Harris called the meeting to order at 6:07 p.m.* with the following members present:

Mayor Larry B. Harris
Vice Mayor Ryan Stone
Council Member Archie Pertiller
Council Member Ryan Stone
Council Member Doug Hay
Council Member Pam King

The following staff members were present:
Josh Harrold, Town Manager
Savannah Parrish, Town Clerk
Jessica Trotman, Planning Director
Jamey Matthews, Public Works Director
Chris Kuhn, Interim Police Chief
Scottie Harris, Fire Chief
Ron Sneed, Town Attorney

**The meeting was delayed by protestors objecting to the requirement that the public wear a mask while attending Town Council meetings due to the ongoing COVID-19 pandemic.*

Mayor Harris welcomed members of the public and led the Pledge of Allegiance. Public Works Director Jamey Matthews offered an invocation.

Mayor Harris called for a motion to add an agenda item.

Council Member Archie Pertiller moved to add Item 8F to the agenda: COVID-19 Discussion. The motion was approved by a vote of 5-0.

2. PROCLAMATIONS, AWARDS & RECOGNITION

Mayor Harris read a proclamation in honor of retired Police Chief Shawn Freeman and thanked him for his service. A copy of the proclamation is included in the official town records.

3. CITIZEN COMMENTS

Jane Burns of 40 Hunting Lodge Drive addressed the Town Council concerning the COVID-19 pandemic and asked the Town Clerk to distribute a card with a website address to the Town Council.

Manager Josh Harrold read the following comment from Shawn Slome of 115 3rd Street:

I would like to share an idea relating to Veterans Park, the Community Garden, and the associated park real estate.

Would the Town Council consider creating a new master plan for Veterans Park?

- Veterans Park has so much more potential.
- It could become a major attraction for visitors and locals.
- The Swannanoa River is a natural anchor for the park.
- Some of the infrastructure and improvements are already in place.
- Plan to integrate the massive Montreat trail system across the river.
- The Park could provide access to more healthy activities in nature, similar to those The Town has been hoping for in our Greenway.
- Our beloved Community Garden is of great pride to our community. The master plan could establish a permanent home for the garden by supporting the construction of facilities it requires in order to reach its full potential.
- This plan could incorporate building a new community center along with any ancillary uses by replacing the obsolete Gray Eagle building and also by possibly relocating the fire station.
- The new Blue Ridge Road interchange will generate commercial growth in the area and make the park more appealing. Why not get ahead of it and prepare for what is coming.

We are blessed to have stunning natural attractions already established in Veterans Park. With a well-conceived master plan, I can envision the park being a destination for the many visitors to our area, improving our local economy, and enhancing the quality of life for its citizens. Thank you for your consideration.

Jud Dougherty - 5 Old Cove, the chairman of the Black Mountain Library Board addressed the Town Council of behalf of the Library Board. The library is doing well. The Board is searching for two board members to replace outgoing members.

4. COMMUNICATIONS FROM STAFF, COUNCILS, COMMISSIONS & AGENCIES

There were no communications from staff, councils, commissions, or agencies.

5. CONSENT AGENDA

Manager Josh Harrold presented the consent agenda to the Town Council.

A. Adoption of Minutes

Motion: *To adopt the minutes of the July 12, 2021, Regular Session Meeting, the July 12, 2021 Closed Session Meeting, the July 8, 2021 Agenda Meeting, the July 22, 2021 Special Call Meeting, and the June 14, 2021 Closed Session meeting.*

B. Resolution Exempting the Town of Black Mountain from G.S. 142-64.31 **#R-21-13**

Motion: *To approve Resolution **#R-21-13** as presented.*

C. Resolution Awarding Police Chief Shawn Freeman his duty weapon and badge. **#R-21-15**

Motion: *To approve Resolution **#R-21-15** as presented.*

D. Budget Amendment to Transfer Fire Department Budget to the new Fire Department Fund

Motion: *To approve the budget amendment as presented*

E. Budget Amendment for the Swannanoa River Restoration

Motion: *To approve the budget amendment as presented.*

F. Resolution for Creation of The Developmental Services Special Revenue Fund #**R-21-16**

Motion: *To approve Resolution **#R-21-16** as presented.*

G. Swannanoa River Restoration Capital Project Fund Ordinance #**0-21-12**

Motion: *To approve the Swannanoa River Restoration Capital Project Fund Ordinance*

H. Call for Public Hearing to Close Portion of Unopened, Platted Portion of Alexander Street

Motion: *To call for the public hearing to close an unopened, platted portion of Alexander Street to be held on Monday, October 11, 2021 at 6:00 p.m. or as soon thereafter as possible, in the Board Room of Town Hall at 160 Midland Avenue.*

I. Resolution for North Carolina League of Municipalities Insurance **#R-21-18**

Motion: *To approve Resolution #R-21-18 as presented.*

J. Resolution for Creation of Technology Special Revenue Fund **#R-21-19**

Motion: *To approve Resolution #R-21-19 as presented.*

Vice Mayor Ryan Stone moved to approve Consent Items A-J as presented. The motion was approved by a vote of 5-0.

6. CITIZEN COMMENTS – None

7. UNFINISHED BUSINESS - None

8. NEW BUSINESS

A. Department of Transportation I-40 Interchange Discussion

Mike Clark began the presentation virtually via Zoom, however there were several technical issues and Planning Director Jessica Trotman finished the presentation and answered questions from the Town Council. The design for the I-40 interchange that was originally selected by the Town Council is no longer due to a Duke Energy's transmission line.

Vice Mayor Ryan Stone moved to approve I-40 Interchange design option three. The motion was approved by a vote of 5-0.

B. Art in the Afternoon Lease Agreement

Manager Josh Harrold presented the Art in the Afternoon Lease Agreement. The terms remain the same as the previous year.

Council Member Archie Pertiller moved to approve the Art in the Afternoon Lease Agreement as presented. The motion was approved by a vote of 5-0.

C. Resolution for Affordable Housing Effort

Planning Director Jessica Trotman presented the Resolution to Support Affordable Housing Efforts. She clarified that this resolution does not commit the Town to any project, only that staff will continue working to identify opportunities for affordable housing.

Council Member Pam King moved to approve Resolution #R-21-14. The motion was approved by a vote of 5-0.

D. Black Mountain Pickleball Group MOU

Parks and Recreation Director Josh Henderson presented the information to the Town Council. The Black Mountain Pickleball Group is requesting to operate their club with the assistance and use of town facilities under a formalized agreement.

> ***Vice Mayor Ryan Stone moved to approve the Memorandum of Understanding as presented. The motion was approved by a vote of 5-0***.

E. Owen Warhorse Youth Football & Cheerleading (OWYFC) MOU

Owen Warhorse Youth Football and Cheerleading has been using fields at Veterans Parks for years without any formal agreement in place. They are a community organization providing youth sports and are seeking the use of town facilities to support the function of their organization.

> ***Council Member Archie Pertiller moved to approve the Memorandum of Understanding and amendments as presented. The motion was approved by a vote of 5-0.***

F. COVID-19 Discussion

Mayor Harris reviewed the safety protocols which he asked the Manager to implement. The updated protocols include a mask mandate and weekly COVID-19 testing for unvaccinated employees. Manager Harrold reviewed the protocol for employees who test positive for the virus. The Town Council agreed to remain under a state of emergency and address the situation again at the September 13 Regular Session Meeting.

Council Member Pam King moved to affirm the mayor's guidelines. The motion was approved by a vote of 5-0.

9. PUBLIC HEARING

A. Public Hearing for ***Ordinance #0-21-11*** for Text Amendments to add a Minor Subdivision Cooling Off Period

> ***Vice Mayor Ryan Stone moved to open the public hearing for Ordinance #O-21-11 for text amendments to add a Minor Subdivision Cooling off Period. The motion was approved by a vote of 5-0.***

Planning Director Jessica Trotman presented the information to the Town Council. The proposed amendment would require three years to pass between minor subdivision approvals for the same property. The Planning Board recommended approval of the text amendment as amended by a vote of 7-0 at their June 28, 2021 meeting.

There were no public comments.

> ***Council Member Archie Pertiller moved to close the public hearing. The motion was approved by a vote of 5-0.***

> ***Vice Mayor Ryan Stone moved to adopt Ordinance #O-21-11 (statement of consistency included) as presented. The motion was approved by a vote of 5-0.***

B. Public Hearing for ***Ordinance #0-21-07*** for text amendments to add Conditional Zoning

Vice Mayor Ryan Stone moved to open the public hearing for Ordinance #O-21-07 for amendments to add conditional zoning. The motion was approved by a vote of 5-0.

Conditional zoning provides flexibility in the development of property while ensuring that proposed development is compatible with neighboring uses. With the changes being required with the implementation of 160D, conditional zoning will allow Town staff to have greater control of developments while allowing for more flexible developments. The proposed amendments lay out the requirements for conditional zoning and the processes an applicant must take to achieve a conditional zoning designation.

There were no public comments.

Council Member Archie Pertiller moved to close the public hearing. The motion was approved by a vote of 5-0.

Vice Mayor Ryan Stone moved to adopt Ordinance #O-21-07 as presented. The motion was approved by a vote of 5-0.

C. Public Hearing to Close Portion of Unopened, Platted Portion of Right-of-Way Parallel and Between W. College Street and Goldmont Street (South End)

Council Member Pam King moved to open the public hearing for Resolution #R-21-17 to Close Unopened, Platte Portion of Right-of-Way Parallel and Between W. College Street and Goldmont Street (south end). The motion was approved by a vote of 5-0.

The Planning Board has submitted a petition to close the southern end of the right-of-way between Goldmont Street and W. College Street. The requested portion runs from the intersection of Central Avenue/Ash Street south to US 70 Hwy. This would close the balance of the alleyway.

There was one public comment from Charles Ledford of 42 Goldmont Street. Mr. Ledford needed clarification on which portion of the alley was being closed. Planning Director Jessica Trotman and Manager Harrold were able to clarify.

Council Member Archie Pertiller moved to approve Resolution #R-21-17 for the right-of-way closure. The motion as approved by a vote of 5-0.

10. COMMUNICATION FROM STAFF

A. Town Attorney Ron Sneed gave a brief update on state legislation that could impact the Town but is stuck in committee.

B. Town Manager Josh Harrold reminded the public that the Sourwood Festival would take place on the 14th and 15th of August. He also informed the Council that Town Hall will be closed for Labor Day on September 6, 2021.

11. COMMUNICATION FROM MAYOR AND TOWN COUNCIL

Mayor Harris offered brief remarks on the safety protocols and stated that he hoped the State would be in a better place soon to allow the Town to move forward with no mask mandate for employees.

12. CLOSED SESSION

Vice Mayor Ryan Stone moved to enter Closed Session to discuss legal and personnel matters as permitted by North Carolina General Statues 143-318.11. The motion was approved by a vote of 5-0.

The Town Council entered closed session at 7:05 p.m.

13. ADJOURNMENT

Vice Mayor Ryan Stone moved to return to open session. The motion was approved by a vote of 5-0.

Vice Mayor Ryan Stone moved to increase the salary of Interim Police Chief Chris Kuhn from $59,917 to $74,267 until the position is permanently filled. The motion was approved by a vote of 5-0.

There being no further business Mayor Larry B. Harris adjourned the meeting at 7:13 p.m.

ATTEST:

______________________________	______________________________
Savannah M. Parrish Town Clerk	Larry B. Harris, Mayor
	______________________________
	Josh Harrold, Town Manager

TOWN OF BLACK MOUNTAIN
TOWN COUNCIL
REQUEST FOR BOARD ACTION
Meeting Date: September 13th, 2021

SUBJECT: Consideration of Revisions to the Town's Purchasing Policy

AGENDA INFORMATION

Agenda Location: **CONSENT AGENDA**
Item Number: 5B
Department: Finance
Contact: Tammy Holland, Finance Director
Presenter: Josh Harrold, Town Manager

BRIEF SUMMARY:

The purpose of this revision is to increase the purchase order threshold to $1,000 and add addition deputy finance officers.

- Due to the increased cost of supplies and the growth of the town the new purchase order threshold would be more efficient and in line with other similar sized municipalities.
- Addition of Managers, and those acting in managerial roles, within departments to the role of Deputy Finance Officer for pre-audit of purchases. This will insure that those responsible for budgeted expenditures are aware of all purchases within the department and that they are ensuring that funds are available prior to the purchase.

MOTION FOR CONSIDERATION:
Motion to approve revised purchasing policy and the Uniform Guidance Policy

ATTACHMENTS:
Purchasing Policy

MANAGER'S COMMENTS AND RECOMMENDATIONS: To approve as presented.

TOWN OF BLACK MOUNTAIN, NC
PURCHASING
POLICY

Adopted: June 14, 2021

Town of Black Mountain Purchasing Policy

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GLOSSARY

Bid: a multi-step process required of the Town by North Carolina General Statutes. Quotes from three separate vendors are required during any bid process unless the good or service to be supplied is produced by only one vendor. If 3 bids are unattainable, the Town Manager must approve the process to move forward.

Informal Bid: A bid on items $30,000.00 and above. Request for quotes are not required to be advertised to the public. Purchases in this category do not need to be approved by Town Council.

Formal Bid: A bid on items $90,000.00 and above or on services $500,000.00 and above. Public advertisement of the request for quote and bid process must be made, bids must be opened in public forum, and Town Council must approve the winning bid.

Quote: a price provided by a vendor on a provided good or service.

Informal Quote: a quote received via verbal communication, email, website, catalog, or fax.

Formal Quote: A price quote received via U.S. Mail, email, fax, or hand delivery.

Requisition: input into the financial system by a department to request the generation of a purchase order by the Finance Department prior to a purchase.

Purchase Order (PO): authorization for the purchase of goods sent by the Finance Department to a vendor prior to the purchase.

Request for Qualifications (RFQ): A request sent to a vendor to provide written documentation showing qualifications to perform a service or supply a product.

Request for Written Proposal (RFP): A request sent to a vendor for a written proposal on a certain good or service.

Encumbering: to commit a given amount of money to the payment of an order.

Purchasing/ Procurement: interchangeable, how the Town obtains needed goods and services.

Department Head: The individual authorized to make purchasing decisions on behalf of his/ her department.

Vendor: provider of a good or service.

S/MWBE: Small Business, Minority-Owned Business Enterprise and Women-Owned Enterprise

HUB: Historically Under-utilized Business

Town of Black Mountain Purchasing Policy

I. FORWARD

This purchasing policy is intended for use as a guide to the Town of Black Mountain's purchasing methods and practice. When used properly, the policies and procedures established herein will enable the Town to obtain needed goods and services efficiently and economically. The goal of this policy is to give structure to the Town of Black Mountain's procurement methods and to set guidelines for Town Departments.

The understanding and cooperation of all employees is essential in order for the Town to maximize the value of each taxpayer dollar spent. While this manual does not answer all procurement related questions, it provides a sound foundation for Town procurement methods. The goals of the Town's purchasing program are as follows:

1. To comply with legal and ethical requirements of public purchasing and procurement.
2. To meet or exceed the procurement requirements for purchase of goods (supplies, materials, and equipment), services, and construction or repair projects.
3. To assure vendors that impartial and equal treatment is afforded to all who conduct business with the Town.
4. To receive maximum value for money spent by awarding purchase orders to the lowest responsible, responsive bidder, taking into consideration quality, performance, support, delivery schedule, previous performance, business location, and other relevant factors.
5. To provide Town Departments the required goods and services in a timely manner in the proper quantity and quality while providing necessary documentation to the Town Finance Department.
6. To professionally administer the search for sources of supplies, the development of new sources, the selection of suppliers, negotiations, commitments, follow-ups, and adjustments.
7. To promote positive and healthy business relationships through effective communications, informed and fair purchasing practice, and adherence of ethical standards.
8. To maximize the standardization of products used within and among departments in order to minimize stock levels and obtain better prices for necessary goods and services.

If the procedures and guidelines established in this manual are followed, each department will be capable of efficiently managing, controlling, and planning available resources to meet present and future needs in order to help the Town meet set goals. Any questions or concerns about this manual or the established procedures should be directed to the Town Finance Department.

This manual is effective immediately following Town Council adoption and supersedes all previous purchasing or procurement instructions or directives.

II. GENERAL GUIDELINES

2.1 Local Buying

It is the desire of the Town of Black Mountain to contract with vendors within the Town and Buncombe County whenever possible. This can be accomplished by ensuring that local vendors, who have goods or services available that are needed by the Town, are included in the competitive purchasing process. The Town has a responsibility to its citizens and local businesses; however, the Town must ensure taxpayer money is spent with prudence and to ensure that maximum value is obtained for each public dollar spent. **The Town cannot and will not make purchasing decisions based exclusively on the location of the vendor**; however, every effort will be made to encourage qualified local vendors and suppliers to compete for Town business. Vendors will be selected on a competitive basis. The Town will not use vendors who have been debarred by Federal, State, or Local governments.

2.2 Planning

It is imperative that all Town Departments take time to properly plan purchases. Purchasing plans should be made for goods and services to be purchased in both the near and distant future; thereby minimizing small orders and last minute purchases. Proper planning will increase the capability of each department to purchase its goods and services in larger quantities to obtain the maximum discount possible. Planning will also reduce the number of trips required to obtain materials and minimize clerical or supervisory time costs associated with the procurement and purchasing process.

2.3 Buying Proper Quality

Quality and service are as important as price when considering goods for purchase; it is the duty of the requesting department to secure the most cost-effective good or service that will meet but not exceed the requirements for which the goods or services are intended. In some instances, the lowest price does not necessarily mean the lowest cost. A higher price, higher quality product may save the Town from excess expenses in the future. It is the requesting Department Head's responsibility to take this into consideration and determine what purchase is best for the citizens of the Town when making a purchase.

2.4 Authorization

Purchases less than $1,000.00 do not require a Requisition or a Purchase Order (PO) and may be made upon the approval of the deputy finance officer in the department the purchase is made. In order to meet the pre-audit requirements of GS. 159-28 each department shall be appointed a deputy finance officer for purchases less than $1,000. The approval of this policy by the Council, designates the Department Heads, Senior Accountant, and Department Managers (or managerial roles) as Deputy Finance Officers for pre-audit purposes on purchases under $1,000. Purchases should only be authorized for necessary goods when proper documentation is provided and that sufficient un-designated funds are available within their departmental budget within the current fiscal year to make the purchase. Each invoice will be authorized using the pre-audit stamp with signature and date before forwarding to Finance for payment. This pre-audit authorization signature verifies that the goods and / or services have been received, the budgeted funds are available, and the invoice has been coded to the proper account number.

2.5 Conflict of Interest

Pursuant to N.C.G.S. § 14-234, no elected official or employee who is involved in making or administering a contract on behalf of the town may derive a direct benefit from the contract, except as provided in N.C.G.S. § 14-234(b), or as otherwise allowed by law. An elected official or employee who will derive a direct benefit from a contract with the town, but who is not involved in making or administering the contract, shall not attempt to influence any other person who is involved in making or administering the contract. To preclude any appearance of impropriety, each individual shall disclose any personal interest he/she may have in regard to contracts. No elected official or employee may solicit or receive any gift, reward, or promise of reward in exchange for recommending, influencing, or attempting to influence the award of a contract by the Town. Designers, suppliers, and contractors that assist in the development or drafting of specifications, requirements, statements of work, invitation for bids, or requests for proposals shall be excluded from competing for such requirements.

2.6 Compliance

The Town will follow all applicable local, state, and federal procurement requirements when expending any funds. Should the Town have more stringent requirements, the most restrictive requirement shall apply so long as it is consistent with state and federal law.
Contracts Funded with federal grant or loan proceeds must be procured in a manner that conforms to all applicable Federal laws, policies, and standards, including those under the Town's Uniform Guidance Policy, to the extent that the standards do not violate state law, unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds.

2.7 Evasion

No contract may be divided to bring the cost under bid thresholds or to evade any requirements under this Policy or state and federal law.

2.8 Contract Requirements

1. **Written.** All contracts shall be in writing

2. **Necessity.** Purchases must be necessary to perform the scope of work and must avoid acquisition of unnecessary or duplicative items. The Requesting Department should check with the federal surplus property agency prior to buying new items when feasible and less expensive. Strategic sourcing should be considered with other departments and/or agencies who have similar needs to consolidate procurements and services to obtain better pricing.

3. **Clear Specifications.** All solicitations must incorporate a clear and accurate description of the technical requirements for the materials, products, or services to be procured, and shall include all other requirements which bidders must fulfill and all other factors to be used in evaluating bids or proposals. Technical requirements must not contain features that restrict competition.

4. **Notice of Federal Funding.** All bid solicitations must acknowledge the use of federal funding if applicable for the contract. In addition, all prospective bidders or offerors must acknowledge that funding is contingent upon compliance with all terms and conditions of the funding award. **All grants and contracts must be approved by the Town Manager and follow additional procurement guidelines found in the UG Procurement Policy.**

5. **Compliance by Contractors.** All solicitations shall inform prospective contractors that they must comply with all applicable federal and state laws, regulations, executive orders, and terms and conditions.

6. **Fixed Price.** Solicitations must state that bidders shall submit bids on a fixed price basis and that the contract shall be awarded on this basis unless otherwise provided for in this Policy. Cost plus percentage of cost contracts are prohibited. Time and materials contracts are prohibited in most circumstances. Time and materials contracts will only be used if no other form of contract is suitable and the contract includes a "Not to Exceed" amount.

7. **Use of Brand Names.** When possible, performance or functional specifications are preferred to allow for more competition leaving the determination of how to reach the required result to the contractor. Brand names may be used only when it is impractical or uneconomical to write a clear and accurate description of the requirement(s). When a brand name is listed, it is used as reference only and "or equal" must be included in the description.

8. **Lease versus Purchase.** Under certain circumstances, it may be necessary to perform an analysis of lease versus purchase alternatives to determine the most economical approach.

9. **Dividing Contract for M/WBE Participation.** If economically feasible, procurements may be divided into smaller components to allow maximum participation of small and minority businesses and women business enterprises. The procurement cannot be divided to bring the cost under bid thresholds or to evade any requirements under this Policy. These may also be referred to as HUB.

10. **Documentation.** Documentation must be submitted to and maintained by the Finance Department detailing the history of all procurements. The documentation

should include the procurement method used, contract type, basis for contractor selection, price, sources solicited, public notices, cost analysis, bid documents, addenda, amendments, contractor's responsiveness, notice of award, copies of notices to unsuccessful bidders or offerors, record of protests or disputes, bond documents, notice to proceed, purchase order, and contract.

11. **Contractor Oversight.** The Requesting Department must maintain oversight of the contract to ensure that contractor is performing in accordance with the contract terms, conditions, and specifications.

12. **Open Competition.** Solicitations shall be prepared in a way to be fair and provide open competition. The procurement process shall not restrict competition by imposing unreasonable requirements on bidders, including but not limited to unnecessary supplier experience, excessive or unnecessary bonding, specifying a brand name without allowing for "or equal" products, or other unnecessary requirements that have the effect of restricting competition.

13. **Dead Line.** All invoices to be paid during the upcoming week must be submitted to Accounts Payable no later than 12:00 PM each Wednesday (except for Holiday weeks) in order to be processed and paid by that Friday. The late approval of invoices does not constitute an emergency and Town resources will not be used to compensate for poor planning. All items received after the deadline will be processed in the next week's Accounts Payable batch. Checks that need to be picked up at Town Hall by the Department or the Vendor will need to be picked up after 12:00 PM on that Friday following the check run.

14. **Sales Tax Report**. Contractors must complete an affidavit of sales tax paid during the life of the contract. This must be received **before** final payment can be issued. A contract sales tax report sample is included in the appendix section of this policy.

***Further information on dollar thresholds can be found here:
http://www.sog.unc.edu/sites/www.sog.unc.edu/files/Dollar%20Thresholds%20Chart%202013.pdf

2.9 PURCHASING FLOW CHART- CONTRACTS**

Costing less than $1,000

- Compare costs
- check budget
- Make Purchase

Costing between $1,000 and $4,999.99

- Informal Quote- Comparative Pricing. Quote may be written or verbal
- Contract must be in writing
- Department will process requisition using the lowest cost, most suitable vendor
- Purchase order issued by the Finance Department
- Make Purchase

Costing between $5,000 and $29,999

- Formal Written Quote
  - at least 3 written
  - via US Mail, email, fax, or in person
  - Solicit quotes from M/WBE vendors
- Award contract and request purchase order for the lowest cost, most suitable vendor
- Must be awarded on a fixed-price basis (not-to-exceed is permissible for service contract)
- Contract Must be in writing
- Purchase order issued by the Finance Department
- Make Purchase

Costing between $30,000 and $89,999

- Informal Bid Process
- Obtain at least 3 written Bids
- Award contract and request purchase order for the lowest cost, most suitable vendor
- Must be awarded on a fixed-price basis (not-to-exceed is permissable for service contract)
- Contract must be in writing
- Purchase Order Issued by the Finance Department
- Make Purchase

Costing $90,000 or more

- Cost or Price analysis is required PRIOR to soliciting bids
- LGC Approval required for $500,000 and above
- All Requirements in the 30,000 to 89,999 threshold plus the following
- Complete specifications or purchase description must be made available to all bidders
- Formal Bid Process- Formally advertise bid atleast seven full days
- Take steps to receive quotes from M/WBE Vendors
- Open Bids at public bid opening on the date, time, and location documented in advertisement.
- Council Approval
- Document Procurement procedures
- Do not divide contract for the purpose of evading the competitive bidding requirements

Purchases using any federal funds must comply with the requirements of the Town's UG Procurement Policy

2.10 PURCHASING FLOW CHART-ARCHITECTURAL AND ENGINEERING SERVICES CONTRACT**

Costing less than $1,000

- Compare costs
- check budget
- Make Purchase

Costing $1,000 or more and Less than $150,000

- Issue RFQ to solicit qualifications from qualified firms-try to solicit quotes from M/WBE vendors
- Rank respondents based on qualifications and select best qualified firm; price cannot be a factor in evaluation
- Negotiate fair and reasonable compensation
- Award contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated-In state preference may be given
- Contract must be in writing
- Purchase order issued by the Finance Department
- Make Purchase

Costing $150,000 and more

- All of the requirements in the $1,000 and less than $150,000 category, plus the following
- Publicly advertise Request for Qualifications (RFQ) to solicit qualifications from qualified firms (formal advertisement in the newspaper is not required)
- Identify evaluation criteria and relative importance of each criteria in the RFQ. Proposals must be solicited from an "adequate number of qualified sources".
- Must have a written method for conducting technical evaluations of proposals and selecting the best qualified firm
- State licensure requirements apply

*****Purchases using any federal funds must comply with the requirements of the Town's UG Procurement Policy*****

III PURCHASING PROCEDURE

3.1 Purchases less than $1,000.00

Purchases less than $1,000 do not require a Requisition or a Purchase Order (PO) and may be made upon the approval of the department head. In order to meet the pre-audit requirements of N.C.G.S. § 159-28, each person with a department head role and the Senior Accountant, has been designated by the Town Council , with the approval of this policy, as a Deputy Finance Officer for the pre-audit of purchases less than $1,000. These purchases may be made by utilizing the Town's Procurement/Credit Card process, check requests, or vendor accounts. Please see the guidelines for acceptable Procurement/Credit Card purchases in section X of this policy. Every purchase should follow a cost comparison to ensure a competitive price and quality for each good and service purchased. Issues that may override the price comparison process may include delivery time and material specifications.

3.2 Purchases between $1,000.00 and $4,999.99 (except for Architectural and/or Engineering professional services)

Purchases in this price range may be obtained by the requesting department(s) through an informal quote process. Obtaining supplies, materials, equipment, or services without obtaining a purchase order is an unauthorized purchase in accordance with N.C.G.S. § 159-28. Any employee doing so may be held personally liable for payment and may face disciplinary actions.

1. No minimum number of quotes is required however, it is encouraged that every attempt is made to acquire at least three (3) quotes. The informal quotes may be received through verbal communications, email, or fax. Verbal quotes must be noted in typed or hand written form documenting price, date quoted, name of vendor, and name of the individual representative of the vendor. Quotes are to be scanned and submitted with the requisition request prior to purchase; after the PO is issued and approved, a purchase may be made.

ALL PURCHASES $1,000.00 AND ABOVE REQUIRE A PURCHASE ORDER. THE DIVIDING OF A CONTRACT TO AVOID THE PURCHASE ORDER OR COMPETITIVE BIDDING REQUIREMENTS IS STRICTLY PROHIBITED.

Obtaining supplies, materials, equipment or services without a purchase order is an unauthorized purchase (except for emergency situations outlined in this policy). Unauthorized purchases are classified as a personal expense and will be paid for by the employee. Furthermore, if a purchase order is not obtained prior to the ordering or purchasing of item the employee must obtain written approval and signature on the face of the invoice from the Town Manager before the invoice is paid. All instances of employees not complying with the purchasing policy will be documented in the employee's personnel file and will be a factor used by the Town Manager in the employee's annual evaluation.

3.3 Purchases between $5,000.00 and $29,999.99 (except for Architectural and/or Engineering professional services)

Purchases in this price range are obtained through the formal quote procedure

1. Obtain price or rate quotes from 3 qualified sources.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers.
3. Award the contract on a fixed-price basis or not-to-exceed basis.
4. Award the contract to the lowest responsive, responsible bidder.
5. Contract must be in writing.
6. Document procurement procedures (similar to keeping a record of bids as required under state law for informal bidding; N.C.G.S. § 143-131).
7. Do not divide the contract for the purpose of evading competitive bidding requirements.

3.4 Purchases between $30,000.00 and $89,999.99 (except for Architectural and/or Engineering professional services)

Purchases in this range must be obtained through informal bids.

1. In the formal quote process, the requesting department is required to receive at least three (3) quotes via U.S. Mail, email, fax, or hand delivery. The required three written quotes are to be scanned and submitted with/ attached to the purchase requisition prior to purchase; after the purchase order is issued and approved, a purchase may be made.
2. Departments are responsible for sending a request for proposal (RFP) and will allow vendors sufficient time to respond to the request based on the complexity of the request.
3. RFPs in the informal bid range may or may not be advertised to the public. A minimum of three (3) vendors, if available, will receive the RFP. Every effort will be made to obtain at least three (3) quotes. Quotes in the informal bid range may be submitted through U.S. Mail, email, fax, or hand delivery. No verbal quotes are acceptable in the informal bid price range.
4. Purchases in the informal bid range do not require Town Council approval. In this range, a no bid may be accepted as a bid. In accordance with N.C.G.S. § 143-129, a Request for Written Quotation will be used for purchases of $30,000 to formal limits with or without advertising. The required three written informal bids are to be scanned and submitted with/ attached to the purchase requisition prior to purchase; after the purchase order is issued and approved, a purchase may be made.
5. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers
6. Cost or price analysis is not required prior to soliciting bids.
7. Award the contract on a fixed-price basis (a not-to-exceed basis is permissible for service contracts where obtaining a fixed price is not feasible).
8. Award the contract to the lowest responsive, responsible bidder.

3.5 Purchases $90,000.00 and above (except for A/E professional services)

Purchases in this range must be obtained through formal bids. Shall be procured using a combination of the most restrictive requirements and state formal bidding procedures (N.C.G.S. § 143-129) as follows:

1. Cost or price analysis is required PRIOR to soliciting bids. For all procurements costing $90,000 or more, a cost or price analysis is required prior to soliciting bids, the Purchasing Department and/or Requesting Department shall develop an estimate of the cost of the procurement prior to soliciting bids. Cost estimates may be developed by reviewing prior contract costs, online review of similar products or services, or other means by which a good faith cost estimate may be obtained. Cost estimates for construction and repair contracts may be developed by the project designer.
2. Complete specifications or purchase description must be made available to all bidders.
3. Every effort will be made to obtain at least three (3) bids.
4. The bid must be formally advertised in a newspaper of general circulation for at least seven (7) full days between the date of the advertisement and the date of the public bid opening. Electronic-only advertising must be authorized by the Town Council. Advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the Town Council the right to reject any or all bids only for "sound documented reasons."
5. Written bids in this range must be submitted in a sealed envelope and must be opened at a public bid opening.
6. The supporting documentation and all bids received are to be scanned and submitted with/ attached to the purchase requisition prior to purchase; after the purchase order is issued and approved, a purchase may be made.
7. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers
8. Open bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed. A minimum of 2 bids must be received in order to open all bids.
9. Award the contract to the lowest responsive, responsible bidder on a fixed-price basis.
10. Town Council approval is required for purchase contracts unless the Town Council has delegated award authority to an individual official or employee. Any and all bids may be rejected only for "sound documented reasons."
11. Contract must be in writing
12. All procurement procedures must be documented
13. Do not divide the contract for the purpose of evading competitive bidding requirements

3.6 Construction and repair contracts costing $500,000 and above

Contracts in this category shall be procured using a combination of the most restrictive requirements and state formal bidding procedures (N.C.G.S. § 143-129) as follows:

1. Cost or price analysis is required prior to soliciting bids (this cost estimate may be provided by the project designer).
2. Complete specifications must be made available to all bidders.
3. Formally advertise the bid in a newspaper of general circulation for at least seven full days between the date of the advertisement and the date of the public bid opening. Electronic-only advertising must be authorized by the Town Council. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the Town Council the right to reject any or all bids only for "sound documented reasons."
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers
5. Open the bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed and in paper form. A minimum of 3 bids must be received in order to open all bids.
6. A 5% bid bond is required of all bidders (a bid that does not include a bid bond cannot be counted toward the 3-bid minimum requirement). Performance and payment bonds of 100% of the contract price is required of the winning bidder.
7. Award the contract on a firm fixed-price basis
8. Award the contract to the lowest responsive, responsible bidder. Council's approval is required and cannot be delegated. The Town Council may reject and all bids only for "sound documented reasons."
9. Contract must be in writing.
10. Document procurement procedures.
11. Do not divide the contract for the purpose of evading competitive bidding requirements.

<u>3.7 Contracts for Architectural and Engineering Services costing under $150,000</u>

Shall be procured using the state "Mini-Brooks Act" requirements (N.C.G.S. § 143-64.31) as follows:

1. Issue a Request for Qualifications (RFQ) to solicit qualifications from qualified firms (formal advertisement in a newspaper is not required). Price (other than unit cost) shall not be solicited in the request.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers
3. Evaluate the qualifications of respondents based on the evaluation criteria developed by the Purchasing Department and/or Requesting Department.
4. Rank respondents based on qualifications and select the best qualified firm. Price cannot be a factor in the evaluation. Preference may be given to in-state (but not local) firms.
5. Negotiate fair and reasonable compensation with the best qualified firm. If negotiations are not successfully, repeat negotiations with the second-best qualified firm.

6. Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated. Town Council approval is not required.
7. Contract must be in writing

<u>3.8 Contracts for Architectural and Engineering Services costing $150,000 or more</u>
Shall be procured using the Uniform Guidance "competitive proposal" procedure (2 C.F.R. § 200.320(d)(5)) as follows:

1. Publicly advertise a Request for Qualifications (RFQ) to solicit qualifications from qualified firms (formal advertisement in a newspaper is not required). Price (other than unit cost) shall not be solicited in the RFQ.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers
3. Identify the evaluation criteria and relative importance of each criteria (the criteria weight) in the RFQ.
4. Proposals must be solicited from an "adequate number of qualified sources" (an individual federal grantor agency may issue guidance interpreting "adequate number").
5. Must have a written method for conducting technical evaluations of proposals and selecting the best qualified firm.
6. Consider all responses to the publicized RFQ to the maximum extent practical.
7. Evaluate qualifications of respondents to rank respondents and select the most qualified firm. Preference may be given to in-state (but not local) firms provided that granting the preference leaves an appropriate number of qualified firms to compete for the contract given the nature and size of the project.
8. Price cannot be a factor in the initial selection of the most qualified firm.
9. Once the most qualified firm is selected, negotiate fair and reasonable compensation. If negotiations are not successfully, repeat negotiations with the second-best qualified firm.
10. Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated. Town Council's approval is not required.
11. Contract must be in writing
12. State licensure requirements apply.
13. May use in-state geographic preferences for procuring Architectural and/or Engineering services, provided that this leaves an appropriate number of qualified firms to compete for the contract give the nature and size of the project.

IV. VENDOR SELECTION

<u>4.1 Selection Policy</u>
Vendors will be selected on a competitive basis. Formal bids and informal bids will be solicited by the Requesting Department. Bid awards, purchase orders and/ or contracts will be issued to

the lowest, responsive, responsible bidder possessing the ability to perform successfully under the terms and conditions of the contract. The Town of Black Mountain will not use vendors who have been debarred by Federal, State, or Local governments.

4.2 Gifts and Gratuities

Town employees are prohibited from soliciting or accepting any rebate, money, entertainment, gift, or gratuity (with the exception of mementos and novelties of nominal value) from any person, company, firm or corporation to which any purchase order or contract is, or might be awarded. The Town will not tolerate circumstances that produce, or reasonably appear to produce, conflicts between the personal interests of an employee and the interests of the Town. Accordingly, the Town may terminate, at no charge to the Town, any purchase order contract if it is found that substantial gifts or gratuities were offered to a Town employee. The Town may also take disciplinary action, including dismissal, against a Town employee who solicits or accepts gifts or gratuities of any value whatsoever.

4.3 Exceptions

Non-competitive contracts are allowed only under the following conditions (If the contract is federal or state funds or pass-through agency please see Town's UG Policy for requirements):

1. **Sole Source**. A contract may be awarded without competitive bidding when the item is available from only one source. The Purchasing Department and/or Requesting Department shall document the justification for and lack of available competition for the item. A sole source contract must be approved by the Town Council.
2. **Public Exigency**. A contract may be awarded without competitive bidding when there is a public exigency. A public exigency exists when there is an imminent or actual threat to public health, safety, and welfare, and the need for the item will not permit the delay resulting from a competitive bidding.
3. **Inadequate Competition**. A contract may be awarded without competitive bidding when competition is determined to be inadequate after attempts to solicit bids from a number of sources as required under this Policy does not result in a qualified winning bidder.
4. **Federal Contract**. A contract may be awarded without competitive bidding when the purchase is made from a federal contract available on the U.S. General Services Administration schedules of contracts.
5. **Awarding Agency Approval**. A contract may be awarded without competitive bidding so long as awarding the contract without competition is consistent with state law.

V. SPECIAL PROCUREMENT PROCEDURES

5.1 Blanket Purchase Order

Blanket purchase orders will be issued to selected vendors for the procurement of certain items after competitive pricing has been completed and if budgeted funds are available. Blanket purchase orders are intended to expedite the procurement of frequently needed and repetitious supplies. Blanket purchase orders should be made for goods and services when the amount of clerical or administrative work otherwise involved is impractical. Examples of items procured through a blanket purchase order include: janitorial services, maintenance service contracts, chemicals, temporary personnel services, automotive parts, and others. Blanket purchase orders will encumber the Requesting Department's funds for any amounts remaining on the purchase order.

Requisition for blanket purchase orders must include all required information along with the following additional information:

1. Time period the purchase order is valid
2. Items covered by the blanket purchase order
3. The Not to Exceed (NTE) amount
4. A listing of all personnel approved to purchase from the blanket purchase order
5. Approval by the Finance Director or Senior Accountant.

All vendor delivery tickets/invoices must be signed by an authorized Town employee indicating receipt of the goods and/ or services. All delivery tickets/invoices from blanket purchase orders must be provided to Accounts Payable as supporting documentation for invoice processing immediately upon receipt.

5.2 Emergency Purchases

In cases of emergencies declared by the Mayor, the Department Head or the Town Manager may purchase directly from any vendor the supplies or services, whose immediate procurement is essential to prevent delays in work which may affect the life, health, or safety of Town of Black Mountain employees or citizens. ***Not anticipating needs does not constitute an emergency***.

The using department shall exercise good judgment and use established vendors, if possible, when making emergency purchases. Always obtain the best possible price and limit purchases to those items that are emergency related. First, determine if a true emergency does exist. Second, anticipate needs and avoid emergency situations whenever possible. Emergency orders are always costly. Vendors usually charge top prices if supplies or services must be obtained on an emergency basis.

During regular working hours, follow standard purchasing procedure as usual as soon as time and the situation permits.

During emergency or special working hours, the following procedure should be used for emergency purchases: verify funds are available and if needed complete a budget amendment request and email to the Finance Officer. The packing slip or invoice received should be coded with the account(s) to be charged and signed, scan/ attach a brief explanation of the nature of the emergency and forward to Accounts Payable with the invoice. Emergency purchases, although sometimes necessary, are costly both in time and money. The use of emergency procedures should be limited and will be monitored for abuse.

5.3 Sole Source of Supply

In the event there is only one vendor capable of providing a particular good or service, the competitive pricing procedures outlined in this manual may be waived by the Town Manager. When a Department Head must purchase goods from a sole source, he/ she shall document on the requisition why only one company or individual is capable of providing the goods required. If this is a purchase over $4,999 the Town Manager must give written approval in order to proceed with the purchasing process. The provisions of N.C.G.S. § 143-129 will be followed requiring Council's approval for sole source exception for all purchases made at or above statute levels.

5.4 Single Brand Convenience

The Town recognizes in certain scenarios it is efficient to purchase items from a single provider rather than a variety of vendors. In such cases, exceptions may be made to standard purchasing procedure; given proper documentation is provided. The purchaser should note reasons buying from a certain vendor will be more efficient in the long run and attach such documentation to each requisition.

Example: One brand of printer Town-wide would allow the same type of ink cartridge to be ordered and reduces time cost related to finding multiple brands. This also allows the Town to buy ink cartridges in bulk from a single provider, further reducing cost.

5.5 State of North Carolina Purchase Contract

All Departments may use the State of North Carolina Department of Administration Purchase and Contract Division whenever possible for procurement of capital and non-capital items. It shall be the responsibility of Department Heads to familiarize themselves with this purchasing method and to check for needed goods and services which are available through this resource at a lower cost than many other vendors offer. This system expedites the purchase of goods, offers pricing compatible with quotes received from formal and informal bids, and satisfies North Carolina General Statutes. Examples of goods on State Contract are: vehicles, office furniture, copiers, janitorial supplies, copier paper, light bulbs, etc. Contact the Finance Department with questions regarding goods on State Contract.

The State of North Carolina Interactive Purchasing System can be found on the web at www.ips.state.nc.us/ips/Default.aspx.

The North Carolina E-Procurement System can be found on the web at http://eprocurement.nc.gov/

5.6 Piggybacking

The Department Head may use the piggybacking process whenever necessary to purchase apparatus, supplies, materials, and equipment. Contracts in the informal range can be used as a tool to solicit additional bids, but no Council action is necessary. For purchases of $90,000 and above, the provisions of N.C.G.S. § 143-129 will be followed.

5.7 Professional Services

Normal competitive procedures are difficult to use in securing professional services such as attorneys, planners, and other professionals who, in keeping with the standards of their discipline, will not enter into a competitive bidding process. When an agreement between a professional service company and the Town is established, a purchase order with the proposed amount shall be issued to satisfy accounting and statutory requirements. Purchases from professionals shall otherwise follow N.C.G.S. § 143-64.31 and 64.32.

5.8 Service Contracts

All service contracts, for which the contractor will perform work while on Town property, must be accompanied by a standard contract form. The contract must follow all signature procedures and contain all necessary insurance and payment options. The completed and signed contract must be signed by the Town Manager, pre-audited by the Finance Director, and be filed in the office of the Town Clerk. The executed contract should be scanned and attached to the department requisition that is forwarded to the Finance Department. The Town will not enter into contractual agreements that are subject to automatic renewal and will attempt to structure contracts to coincide with the fiscal year. Service contracts may be renewed annually, without the bidding process, by the Town Manager.

Contracts authorized by Town Council through direct award or budget authorization may be executed by the Town Manager. Subsequent orders changing the original contract, which do not exceed the approved cost of the contract, will be executed by the Town Manager.

Town Council must approve all contracts that meet any of the following criteria:

1. Contracts $90,000 and more
2. Contracts with terms greater than one year

5.9 Vendors with Town Accounts

The Town should have accounts with certain vendors, where possible, in order to expedite the purchasing process for frequently needed minor items. In the event the Town has an account with a certain vendor, Town employees should not use purchase/credit cards to obtain goods or services from the vendor. Proper purchasing procedures should be followed and only authorized purchases should be charged to Town accounts.

5.10 Tax Exemption

The Town of Black Mountain is exempt from all federal excise taxes. However, the Town is not exempt from sales tax and all invoices should include such, unless they are for purchase of resale items. Sales tax is not considered a cost factor since municipalities file for a refund as provided for by the NC General Statutes.

5.11 Purchases Order/Spending Cut-off Date

In preparation for the annual audit and the fiscal year-end, it is necessary that the Town impose a spending deadline annually. The Finance Director will issue an email each year with the cutoff date for purchase/credit cards and all other spending. The spending deadline will not pertain to normal recurring monthly expenses, emergency purchases or emergency repairs.

VI. DELIVERY AND PERFORMANCE

A completed and accepted purchase order by the parties concerned must produce the intended results or objectives before it can be considered a successful or completed purchase. The terms and conditions must clearly define the delivery and performance requirements of the services, supplies, or equipment.

The importance of the delivery schedule will be emphasized to the vendor. Delivery requirements will be clearly written and fully understood by all vendors. If several items are required by the purchase order, there may be a different delivery schedule for each item. It is necessary to clearly indicate the delivery location on the requisition.

6.1 Partial Deliveries

Some purchase orders may list several items. It is possible the vendor may complete timely delivery on some items, which is referred to as "partial delivery". Upon receipt of a partial delivery, photocopy the purchase order; attach a copy of the signed delivery receipt and forward to the Finance Department along with the vendor invoice indicating which lines of the purchase order are to be paid.

6.2 Non-Performance

If a vendor fails to meet any requirements(s) of the specifications or terms and conditions of the contract or purchase order, the vendor can be cited for non-performance. The seriousness of non-performance will be evaluated based upon the circumstances of each violation.

VII. INSPECTION AND TESTING

Life and safety as well as successful operation of expensive equipment and supplies may depend upon how well a purchased item meets design and performance specifications. Goods and materials should be checked at the time of receipt for damage or defects. The inspection shall include assuring goods comply with the specifications. If damage is found or the goods fail to comply with the specifications, the item(s) shall be rejected as outlined below.

7.1 Rejection

In order to protect the Town's rights in the event of rejection, for whatever reason, the vendor shall be informed immediately. Reasons for the rejection must be documented in memo form and forwarded to the Finance Department in a timely manner. Along with all other quotes or bids.

7.2 Damaged Goods

One of the major reasons for immediately inspecting the goods or materials upon receipt is to detect any visible damage. It is necessary that all damage including evidence of concealed damage shall be documented by memo, attached to a copy of the purchase order, forwarded to the Finance Department, reported to the vendor as soon as possible, and informs the vendor of the damaged goods. When it is apparent that the extent of the damage causes the goods to be worthless, they will not be accepted.

VIII. SALE OF TOWN PROPERTY

The Finance Director has been authorized by the Town Council to declare as surplus single asset or property or a group of items with a value of up to $30,000.00, to set its fair market value, and to convey title to the property and to advertise electronically the sale of any personal property. The Finance Director shall approve a Sale of Property Authorization form **prior** to the sale or disposal of any Town property. The Finance Department shall keep all approved forms, which will record a description of the property sold or exchanged, and the amount of money or other considerations received for each sale or exchange. N.C.G.S. § 160A-265 through 280 should be referenced before the sale of any Town property in order to ensure statutes and procedure are followed properly. Once sale approval is received the item will be posted on the GovDeals site to sale. All sales not being sold through The GovDeals site will require Town Manager and Finance approval.

IX. ELECTRONIC PAYMENTS

Town Council has authorized the Town of Black Mountain to engage in electronic payments as defined by G.S. 159-28. As required by NC Administrative Code 20 NCAC 03 .0409 and NC Administrative Code NCAC 03 .0410, this policy outlines procedures for pre-auditing obligations that will be incurred by electronic payments and procedures for disbursing public funds by electronic transaction.

9.1 Pre-audit of Electronic Transactions

Before each transaction is made, the individual making the transaction must ensure that:

1. There is an appropriate budget ordinance or project/grant ordinance appropriation authorizing the obligation
2. Sufficient monies remain in the appropriation to cover the amount that is expected to be paid out in the current fiscal year if the expenditure is accounted for in the budget ordinance/resolution or the entire amount if the expenditure is accounted for in the a project/grant ordinance

The Finance Department will enter an encumbrance in the accounting system for each department in an adequate amount to cover one month's purchases for the P-Card.
For specific purchasing guidelines on P-Cards, see section X

X. PURCHASE/CREDIT CARDS

Purchase/Credit cards exist to provide departments a flexible and efficient way to make **small** purchases. Purchase/Credit cards empower the cardholder to acquire necessary materials to conduct business and/ or deliver services in a more convenient and expeditious manner. Purchase cards should not be used to procure items or services not directly related to Town business. The Department Head and the Finance Department are responsible for ensuring the pre-audit requirements are met for each purchase. Please see the following guidelines when using a Town credit or purchase card:

1. Employees should make every effort to purchase goods through state contract and/or set up a Town account with vendors that they use often.
2. All purchases, when possible, need to be processed via a check using the Town's normal AP process.
3. Purchase/credit cards should not be used to procure items or services not directly related to Town business.
4. All shipped items, purchased with a Town purchase/credit card, must be shipped to a Town office or Town owned location.
5. Personal use of the card is not allowed and will be considered as terms for card revocation as well as employee disciplinary action.
6. Charges to the card are limited by a monthly and per transaction dollar amount. In addition, some vendors are blocked based on their Merchant Category Code (MCC). Transaction dollar limits and allowable merchant categories are established for each card account.
7. Cardholder should be aware that splitting transactions in order to remain within the transaction limit or monthly limit is prohibited.
8. Reviewer and Approvers of card transactions need to make certain purchases are applied to the correct expense account, it is a valid Town expense, and are reviewed daily.
9. Itemized receipts are required for **ALL** items. Failure to comply can result in card revocation.

10.1 Employee Responsibilities

No purchase over $1,000.00 shall be made using the purchase/credit card system without a Purchase Order unless the purchase falls under the items not requiring a PO (See appendix). Purchase/credit cards assigned to employees may have approval limits set by Department Heads below the $1,000.00 policy threshold. If an employee needs to make a purchase above the limit set by the Department Head, the employee should consult with the Department Head before making a transaction. The Department Head will need to request Finance to increase the transaction limit and the duration of the increase.

1. The purchase/credit card that each cardholder receives shall only be used by the cardholder. No other person is authorized to use this card. The cardholder may make transactions on behalf of others in their department/ division; however, the cardholder is responsible for all purchases charged to their card.
2. The total value of a transaction shall not exceed a cardholder's single purchase limit. Payment for a purchase shall not be split into multiple transactions to stay within the single purchase limit.
3. The cardholder is responsible for maintaining receipts of all card transactions and providing to Finance immediately upon availability. All receipts must be coded, pre-audited, and approved. Failure to provide receipts in a timely manner may result in the cardholder losing the privilege of using a Town purchasing card.
4. Purchase/credit cards may be used for lodging and for training/ professional activities. Purchase/credit cards cannot be used for meals during employee travel. Cardholders should consult the Town's Travel Policy for more information.

<u>10.2 Receipts and Receipt Submission</u>

Receipts should be collected and kept for all transactions. A detailed receipt should be provided for all purchases. If a detailed receipt is not obtained from the vendor, a Lost/ Missing Receipt Form and a detailed list of what was purchased will be required. The Lost/Missing Receipt Form must be signed by the Department Head, if lost/missing receipt is for a Department Head purchase then the Town Manager must sign the form. Repeated lost or missing receipts will result in a cardholder losing the privilege associated with a Town purchasing/credit card. Receipts should be approved, coded, and pre-audited.

<u>10.3 Unauthorized Purchases</u>

Certain items should not be purchased by Town employees. Any of the following items listed below have been deemed inappropriate for purchase by Town employees:

1. Personal purchases
2. A single purchase that exceeds the cardholder's single purchase limit
3. Cash advances
4. Gift Cards
5. Alcoholic beverages
6. Purchase of in-room movies, meals, etc., during a hotel/ motel stay while on Town business

7. Clothing- All clothing purchases should follow the guidelines of the clothing allowance policy. Only items that contain the town logo, safety items, or tactical gear are allowed to be purchased with a credit card.

10.4 Consequences of Improper Use

A cardholder who makes unauthorized purchases or carelessly uses a purchase/credit card will be liable to the Town of Black Mountain for the total dollar amount of such purchases plus any administrative fees charged by the bank or card company in connection with the misuse. The cardholder's employment may also be terminated and will be subject to legal action.

Cardholders are expected to obtain the best prices available on purchases. Purchase of an item above market prices where the vendor gives the employee any form of gift, bonus, or premium whether in the form of cash or merchandise is considered a kickback, is illegal, and can result in disciplinary action up to and including termination of employment and lawful prosecution. Town policy strictly forbids anything in exchange for making a purchase.

It is unlawful to "split" a purchase in order to fall under the thresholds set forth in this policy.

If an employee does not follow the guidelines set forth in this purchasing policy the employee's use of a town credit card will be terminated.

XI. FRINGE BENEFITS

Any item purchased for an employee must be a valid business expense and not considered wages to the individual. Clothing, non-monetary awards, meals, travel, and other items may be considered wages depending on circumstances. Awards of cash or cash equivalents are always considered wages regardless of the amount awarded. Any award of cash or cash equivalents must be pre-approved by the Town Manager. All awards and purchases considered wages to an employee must be processed through payroll and will be subject to all applicable taxes. Please contact the Finance Department with any questions.

XII. EXHIBITS

Exhibit A. Items Not Requiring a Purchase Order
Exhibit B. Requisition Request
Exhibit C. Quote Form
Exhibit D. Contractors Sales Tax Report
Exhibit E. Lost/Missing Receipt Form
Exhibit F. Contracts and Purchasing NC Thresholds
Exhibit G. Sale/Disposal of Town Property Authorization Form

EXHIBIT A

Items Not Requiring a Purchase Order

1. Legal ads
2. Dues
3. Claim or refund payments (Citizens filing for damages/ reimbursement)
4. Insurance
5. Medical examinations
6. Petty cash expenditures & replenishing funds
7. Postage
8. Refunds
9. Building rental
10. Debt Service Payments
11. Equipment Lease Payments
12. Tuition and training or other fees for approved educational purposes
13. Utilities (electric, water, sewer, cable, internet, natural gas, trash, etc.)
14. Approved travel arrangements and accommodations

EXHIBIT B

Requisition Request

TOWN OF BLACK MOUNTAIN
Requisition Worksheet Form

REQUISITION INFORMATION	
DATE	
REQUESTER NAME	
DEPARTMENT	
VENDOR NAME	

For Finance Department Use Only	
Purchase Order #	

QTY	DETAILED ITEM DESCRIPTION	GL Account	UNIT PRICE	TOTAL ITEM COST

Total Request

Instructions: Complete all fields and Remit to the Finance Department. Attach additional sheets if necessary, if purchase is over . All requisition 5,000 and over require at least 3 written quotes. Please see the Town of Black Mountain purchasing policy for additional requiments

EXHIBIT C

Quote Form

Town of Black Mountain

QUOTE FORM

Employee Name:	Department:

DATE QUOTES OBTAINED:	DATE GOODS ARE REQUIRED:	____DEPT WILL PICK UP ____EMERGENCY ORDER

	VENDOR 1 NAME	VENDOR 2 NAME:	VENDOR 3 NAME:
VENDOR #:			
CONTACT:			
PHONE #:			
TOTAL QUOTE:			

ACCOUNT #	QTY	ITEM DESCRIPTION	UNIT	TOTAL

REASON(S) QUOTES NOT OBTAINED /EXPLANATION OF SOLE SOURCE OR EMERGENCY:

All Requisition $5,000 and over received without obtaining three written quotes must be approved by the Town Manager prior to requisitions approval. Except in the case of an emergency

EXHIBIT D

CONTRACTOR SALES TAX REPORT

Page _____ of _____.

Certificate for North Carolina Sales Tax

Project or Contract Number:____

Date:_______________________

Trade:_______________________________

Contractor:____

Invoice Date	Invoice Number	Name of Vendor	Description of Materials	Item Cost	State Tax	County Tax	Total Invoice	County Name
			Totals:					

This is to certify that the above materials purchased on the invoices listed were used in the construction of the ______________________________ and that the Sales Tax listed (State and County) is not included on the monthly estimate for contract payment or any other certificate for North Carolina sales tax. Further, that the items listed are annexed to, affixed to, or in some manner have become a part of the building or structure being erected, altered or repaired.

Certified to be correct by:_______________________________________
Owner or Officer of Company

Sworn to and Subscribed before me this _______day of________________20_______

______________________________ (SEAL)
Notary Public

My Commission Expires:_____________________

EXHIBIT E

LOST OR MISSING RECEIPT FORM

P-CARD MISSING AFFIDAVIT RECEIPT

Missing Receipt Affidavits lacking the required information or documentation will be returned to the authorized signer. Please read the instructions (shaded box) below.

☐ Attached is a copy or fax of the receipt

☐ -OR - I certify that I have contacted the merchant and was unable to obtain a copy of the receipt. Therefore, I have attached the following:

- ☐ A copy of the packing slip or invoice that confirms items and pricing.

I, undersigned, certify (a) that the expense described above, on P-Card was lost or not obtained, and (b) that this expense has not yet nor will be submitted to the Town of Black Mountain or any other organization for reimbursement or tax purposes. Please provide the following for this transaction.

Vendor: ____

Amount: ____

Date of Transaction: ______________________________________

Signature of Cardholder/Card User: ______________________________________
Required

Date: ______________________________________

Authorized Signature: ______________________________________
Required

Date: ______________________________________

P-Card Administrator Signature: ______________________________________
Required

Date: ______________________________________

EXHIBIT F

CONTRACTS AND PURCHASING NC THRESHOLDS

Dollar Thresholds in North Carolina Public Contracting Statutes

Dollar limits and statutory authority current as of November 1, 2015

Requirement	Threshold	Statute
Formal bidding	*(estimated cost of contract)*	
Construction or repair contracts	$500,000 *and above*	G.S. 143-129
Purchase of apparatus, supplies, materials, and equipment	$90,000 *and above*	G.S. 143-129
Informal bidding	*(actual cost of contract)*	
Construction or repair contracts	$30,000 to formal limit	G.S. 143-131
Purchase of apparatus, supplies, materials, and equipment	$30,000 to formal limit	G.S. 143-131
Construction methods authorized for building projects	*Over* $300,000 *(estimated cost of project)*	G.S. 143-128(a1)
Separate Prime		
Single Prime		
Dual Bidding		
Construction Management at Risk *(G.S. 143-128.1)*		
Design-Build and Design-Build Bridging *(G.S. 143-128.1A; G.S. 143-128.1B)*		
Public Private Partnership (P3) *(G.S. 143-128.1C)*		
Historically Underutilized Business (HUB) requirements		
Building construction or repair projects		
– Projects with state funding *(verifiable 10% goal required)*	$100,000 *or more*	G.S. 143-128.2(a)
– Locally funded projects *(formal HUB requirements)*	$300,000 *or more*	G.S. 143-128.2(j)
– Projects in informal bidding range *(informal HUB requirements)*	$30,000 to $500,000*	G.S. 143-131(b)
**Note: Formal HUB requirements should be used for informally bid projects costing between $300,000 and $500,000*		
Limit on use of own forces (force account work)	*(not to exceed)*	G.S. 143-135
Construction or repair projects	$500,000 *(total project cost)* or $200,000 *(labor only cost)*	
Bid bond or deposit		
Construction or repair contracts *(at least 5% of bid amount)*	Formal bids *($500,000 and above)*	G.S.143-129(b)
Purchase contracts	Not required	
Performance/Payment bonds		
Construction or repair contracts *(100% of contract amount)*	Each contract *over* $50,000 of project costing *over* $300,000	G.S. 143-129(c); G.S. 44A-26
Purchase contracts	Not required	
General contractor's license required	$30,000 *and above*	G.S. 87-1
Exemption	Force account work *(see above)*	
Owner-builder affidavit required	Force account work *(see above)*	G.S. 87-14(a)(1)
Use of licensed architect or engineer required		
Nonstructural work	$300,000 *and above*	G.S. 133-1.1(a)
Structural repair, additions, or new construction	$135,000 *and above*	
Repair work affecting life safety systems	$100,000 *and above*	
Selection of architect, engineer, surveyor, construction manager at risk, or design-build contractor		
"Qualification-Based Selection" procedure (QBS)	All contracts unless exempted	G.S. 143-64.31
Exemption authorized	Only projects where estimated fee is *less than* $50,000	G.S. 143-64.32

From *A Legal Guide to Purchasing and Contracting for North Carolina Local Governments*, 2nd ed., by Frayda S. Bluestein,

TOWN OF BLACK MOUNTAIN
SALE/DISPOSAL OF TOWN PROPERTY AUTHORIZATION

The Department Head is required to obtain authorization from the Finance Director **prior** to the sale or disposal of any Town Property, regardless of value. Include any additional relevant information necessary. Please attach a photo of the item sold if available.

Complete the table below prior to the disposal of property:

PROPERTY SOLD		SALE PROCEEDS ESTIMATE	
PROPERTY CONDITION		DEPT/BUDGET WHICH MADE THE ORIGINAL PURCHASE	
YEAR		CITY I.D. #	
MILEAGE		VIN / SERIAL #	
MAKE		LISENCE PLATE#	
MODEL			

Other description, notes:

____

____

Department Head Signature: ______________________________ Date: _____/_____/_______

Finance Director Signature: ______________________ Date: _____/_____/_______

Complete the table below after the disposal of property:

NAME OF INDIVIDUAL OR BUSINESS THAT PROPERTY WAS SOLD TO:		DATE PAYMENT RECEIVED BY CITY:	
SALE PROCEEDS ACTUAL	$	SIGNATURE OF CITY EMPLOYEE RECEIVING PAYMENT:	

This completed/ signed and authorized form must be submitted to the Finance Department along with the proceeds of any sale of property. If an item is scrapped or disposed of with no proceeds this completed/ signed and authorized form must be submitted to the Finance Department within 5 days of the disposition of property.

TOWN OF BLACK MOUNTAIN TOWN COUNCIL
REQUEST FOR BOARD ACTION
Meeting Date: September 13, 2021

SUBJECT: Resolution supporting NCDOT to administer Ninth Street Bridge Replacement

AGENDA INFORMATION

Agenda Location:	**CONSENT**
Item Number:	5C
Department:	Planning
Contact:	Jessica Trotman, Planning Director
Presenter:	Josh Harrold, Town Manager

BRIEF SUMMARY: The town is replacing the Ninth Street Bridge with funding support from NCDOT. The Town Manager and Planning Director have requested NCDOT administer this project and provided a letter with this request to NCDOT. The district regularly administers projects for local governments. As part of the process, the districts asked for a resolution of support from the governing board before developing the contract to administer the project.

MOTION FOR CONSIDERATION: Approve as presented

FUNDING SOURCE: N/A

ATTACHMENTS: Draft Resolution

MANAGER'S COMMENTS AND RECOMMENDATIONS:

RESOLUTION #R-21-20

RESOLUTION FOR NORTH CAROLINA DEPARTMENT OF TRANSPORTATION TO ADMINISTER NINTH STREET BRIDGE REPLACEMENT

WHEREAS, the Town Council for the Town of Black Mountain applied for and received 2020 STBG grant in the amount of $680,000 which is to provide funding for replacement of the bridge on Ninth Street; and

WHEREAS, the project has been identified as HL-0013 in the State Transportation Improvement Plan; and

WHEREAS, the Town Council wishes to North Carolina Department of Transportation to administer preliminary engineering, right-of-way and construction of the Ninth Street Bridge Replacement;

NOW, THEREFORE, BE IT RESOLVED, BY THE TOWN COUNCIL OF THE TOWN OF BLACK MOUNTAIN, NORTH CAROLINA THAT the Town Council requests the North Carolina Department of Transportation to administer all phases of the Ninth Street Project Placement Project, known as H-0013.

I move the adoption of the foregoing resolution:

____
Council Member

READ, APPROVED AND ADOPTED, by a vote of _____ to _____ this 13th day of September, 2021.

____
Larry B. Harris, Mayor

ATTEST:

_______________________________ ___________________________________
Savannah Parrish, Town Clerk Josh Harrold, Town Manager

TOWN OF BLACK MOUNTAIN
Agenda Item Summary
Meeting Date: September 13th , 2021

SUBJECT: Ninth Street Bridge Replacement Capital Project Fund Ordinance.

AGENDA INFORMATION

Agenda Location: **CONSENT AGENDA**
Item Number: 5D
Department: Finance
Contact: Tammy Holland, Finance Director
Presenter: Tammy Holland, Finance Director

BRIEF SUMMARY:
On 05/10/21 the Town of Black Mountain passed Resolution #R-21-07 to provide matching funds for the Ninth Street Bridge Replacement Project. Per the guidance in the resolution a capital project will be created to establish a capital project for financial and budgeting purposes. The Town has been awarded $544,000 in grant funds. The Town's matching requirement is $136,000. The total project amount is $680,000.

The commitment amount of $136,000 will be budgeted for using the Town's general fund available fund balance. Transfers into the capital project fund from the general fund will happen on an as needed basis.

Based on NC General Statute l59-13.2 the Town is authorizing and budgeting for the Ninth Street Bridge Replacement Capital Project with the approval of this Capital Project Fund Ordinance.

MOTION FOR CONSIDERATION: Council to approve the Ninth Street Bridge Replacement Capital Project Fund Ordinance

ATTACHMENTS: Ordinance and Budget amendment

MANAGER'S COMMENTS AND RECOMMENDATIONS: To approve as presented.

Ordinance: O-21-15
Board Meeting: September 13, 2021

Town of Black Mountain
Ninth Street Bridge Replacement
Capital Project Fund Ordinance

BE IT ORDAINED by the Town Board of the Town of Black Mountain, North Carolina, that, pursuant to the Local Government Budget and Fiscal Control a local government may, in its discretion, authorize and budget for a capital project or a grant project in a project ordinance adopted pursuant to G.S. 159-13.2. A project ordinance authorizes all appropriations necessary for the completion of the project and neither it nor any part of it need be readopted in any subsequent fiscal year; and the following Capital Project Fund Ordinance is hereby adopted as follows:

Section 1. The project authorized is the Ninth Street Bridge Replacement Capital Project, STBG Grant Contract HL-0013

Section 2: The officers of this unit are hereby directed to proceed with the capital project within the terms of the grant documents, and the budget contained herein.

Section 3. The following anticipated Revenues are hereby adopted:

NINTH STREET BRDGE REPLACEMENT		
Account Number	**Account Description**	**Revenue Amount**
57-00-0000-300	Grant Revenue	$544,000.00
57-00-0000-902	Transfer In	$136,000.00
	Total Revenue	**$680,000.00**

Section 4. The following anticipated appropriations are hereby adopted:

NINTH STREET BRDGE REPLACEMENT		
Account Number	**Account Description**	**Expense Amount**
57-00-5000-103	Professional Services-Engineering/Survey	$150,000.00
57-00-5000-707	Capital Outlay-Construction	$530,000.00
	Total Expenses	**$680,000.00**

Section 5. The Finance Director is hereby directed to maintain within the Capital Project Fund sufficient specific detailed accounting records to satisfy the disclosure requirements of all the contractual agreements, if applicable.

Section 6. Copies of this Capital Project Ordinance shall be furnished to the Town Clerk, the Town Manager and the Finance Director for the direction in carrying out this project.

Section 7. Authorized project expenditures represent appropriations necessary for the completion of projects and therefore do not require re-appropriation in any subsequent fiscal year. However, per G.S. 159-13.2 information on project ordinances will be included in the annual budget. Each year the finance officer shall include in the budget, information in such detail as he or the governing board may require concerning each grant project or capital project. This information will be detailed for any new project funds expected to be authorized by project ordinance during the budget year and also include information on projects authorized by previously adopted project ordinances which have remaining appropriations available for expenditure during the budget year.

Duly adopted by the Town Council of Black Mountain on this the 13th day of September, 2021.

____
Larry B. Harris
Mayor

ATTEST:

____

Savannah Parrish
Town Clerk

BUDGET AMENDMENT REQUEST FORM

DATE: 08/23/21

BUDGET NUMBER

Fund-Function-Dept-Account Number	Account Desc	DEBIT	CREDIT
10-00-3905-900	**Appropriated Fund Balance**		**$136,000.00**
10-00-5900-955	**Transfer Out**	**$136,000.00**	
57-00-0000-902	**Transfer In**		**$136,000.00**
57-00-0000-300	**Grant Revenue**		**$544,000.00**
57-00-5000-103	**Professional Services-Engineering/Survey**	**$150,000.00**	
57-00-5000-707	**Capital Outlay-Construction**	**$530,000.00**	
Total:		**$816,000.00**	**$816,000.00**

REASON FOR BUDGET AMENDMENT

Establish Ninth Street Bridge Replacement Capital Project Budget Per Capital Project Budget Ordinance O-21-15

Entered by:

Department Head signature: Danny Holland

Budget Adjustments must be approved by the Department Head before being submitted to Finance

TOWN OF BLACK MOUNTAIN TOWN COUNCIL
REQUEST FOR BOARD ACTION
Meeting Date: September 13, 2021

SUBJECT: Utility Billing Policy and Procedures

AGENDA INFORMATION

Agenda Location: **CONSENT AGENDA**
Item Number: 5E
Department: Finance
Contact: Tammy Holland, Finance Director
Presenter: Tammy Holland, Finance Director

BRIEF SUMMARY:

Establishment of Utility Billing policy and procedures. This policy has been developed in accordance with state statutes and regulations. Acceptance of the policy will provide staff and citizens a clear understanding and guidance of the establishment, billing, and adjustments of a Town of Black Mountain Utility Account.

Budget Impact:
none

MOTION FOR CONSIDERATION: To approve or deny the Utility Billing Policy and Procedures

ATTACHMENTS: Utility Billing Policy and Procedures

MANAGER'S COMMENTS AND RECOMMENDATIONS: To approve as presented.

TOWN OF BLACK MOUNTAIN, NC
UTILITY BILLING
POLICY AND PROCEDURES

Adopted: September 13, 2021

Introduction

The policies and procedures contained in this document are intended to define the relationship between the customer of utility services and the Town of Black Mountain. These policies are, by notification of and available to all customers, made part of the contract for service entered into by the customer. By contracting for service, the customer acknowledges the applicability of these policies and procedures and agrees to abide by them.

Authority

The enactment of standard utility policies requires the approval of the Town Council. As fee schedules, rates and other specific policies are updated, it will be the responsibility of the Utility Customer Service Department to ensure this policy manual is revised in accordance with Town Council action.

Office and Service Hours

The Town Utility Customer Service Department is located at 160 Midland Avenue and is open from 9 a.m. to 5 p.m. Monday through Friday. Routine and regular service work will be performed from 8 a.m. to 5 p.m. Monday through Friday except for Town holidays. Service work for unusual conditions may be arranged at other times upon customer request and may require an additional fee.
A 24-hour drop box is available for customer payments at the Town Hall. Payments made after 8:00 am at the drop box are posted the next business day.

Privacy

Our application/agreement requests that the potential customer provide their social security number in accordance with NCGS § 132-1.10**.** We request this number to verify identity, check credit worthiness, protect sensitive account information, and collect delinquent balances. There is no statutory or other authority requiring any customer to provide a social security number. However, when customer billing data is requested, the social security number or Tax ID Number will be used to verify identity prior to any information being given out by staff. Staff members have the authority to request other verifying information to protect the Town as well as Town customers against fraud. Customer billing data is not considered public information. The Town will ensure that customer information, including billing data, is safeguarded against unauthorized use.

Establishing Service.

All connections to the Town of Black Mountain water system are required to have an active account. New service accounts are required to submit an application along with proper documentation for approval to the Town of Black Mountain Utility Customer Service Department to set up a customer account. To ensure that service is connected on the date requested, it is the responsibility of the utility account owner(s) to complete and return a service application form at least 2 business days prior to the requested service start date. Any connection that does not setup an account within a timely manner may be required to pay for all charges from time of connection to the most recent billing period prior to opening an account.

Application. A completed application for service must be received and reviewed for completeness by the Utility Customer Service Department prior to installation of new service or releasing responsibility of prior customer if residence is sold, transferred, or leased to a new tenant. Service is conditioned on satisfaction of all previously owned (and still legally collectible) utility debts to the Town.

- As part of the application process, the Town requires that the applicant provide a valid government issued photo identification document (driver's license, passport, state identification card, military identification card, etc.) and requests a social security number. A new application must be submitted for every connection,regardless of prior connections to an existing address or customer history.
- Property Owners shall provide a closing statement or deed to verifyownership. Property owners may have utilities connected at more than one location if all accounts remain in good standing with the Town. Any delinquency for utility services at any location may prevent a property owner from establishing new service. Property owners with rental property may have service automatically revert to them when a tenant requests services to be discontinued in their name. This may prevent the owner from having to apply for service with each occurrence. A separate landlord agreement must be completed before tenants may start service in their name.
- Non-Property Owners shall provide the Town with a copy of a lease/rental/occupancy agreement and may be limited to one service location at any given time. The non-property owner's utility account may be set up in the name or names specified in the lease/rental/occupancy agreement. In the event any person named in the lease has any outstanding utility debt with the Town, that debt shall be paid in full prior to service connection. Per NC Session Law 2009-302 House Bill 1330, A county or municipality may suspend or disconnect public enterprise services to a customer because of a past-due and unpaid balance incurred by another person who resides with the customer after services have been provided to the customer's household. If a lease/rental/occupancy agreement cannot be provided, the application for utility services may be denied.
- Multi-Unit Residencies shall provide the Town with verification of ownership listing all units by street address and unit number, if applicable. Owners of the property shall provide the Town with a listof authorized agents who act upon their behalf (e.g. site managers,real estate agents). A federal identification number or social security number may be requested for access to account information and use in the collection of any delinquencies owed to the Town. Multi-unit establishments may have account responsibility automatically revert to owner establishment when a tenant requests for services to be discontinued in their name. Multi-unit residency owners or agents may have utilities connected at more than one location if all accounts remain in good standing with the

Town. Any prior delinquency for utility services at any location may prevent an owner from establishing new service.

- Revert-To-Owner Contract for Continuous Utility Service shall provide property owners and managers the ability to maintaincontinuous utility service while a rental unit is vacant.
  - A contract must be completed and a listing of all premises (service addresses) must be completed and submitted by the Owner(s)/Property Manager(s).
  - By signing the contract, the owner(s) or manager(s) are agreeing to be responsible for utility services and related costs between the time service to outgoing tenants is terminated and service to incoming tenants is initiated, including base charges.
  - Service may revert to the owner upon notification by a tenant to discontinue service in their name. As stated in the contract, no notification may be given to the owner/manager in such situation.
  - If service is discontinued by the Town due to non-payment or interference with normal service (i.e. meter tampering), service shall not automatically revert to the owner.
  - Once service has been terminated for non-payment or interference with normal service has occurred, service at the premises may be reinstated only if (1) payment in full is received; or (2) proof is provided to the Town of Black Mountain that the non-paying tenant no longer occupies the premises.
  - Owner(s)/Property Manager(s)/ Tenants may be denied service in the instance the Owner(s)/ Property Manager(s) are delinquent at any utility service location.
  - Town staff must be notified and directed to activate meters at property that is not in use.
  - The premise visit charge may be charged to an account if utility service has not been previously established at a premises/service address in the name of the applicant.
  - An authorization form to release utility billing information may be completed in order to give additional persons access to account information for the purpose of payment and balance requests.

Reasons for Denial of Service. Applications for utility service may be denied for anyone of the following reasons:

- A lease/rental/occupant agreement cannot be provided
- Validity of lease/rental/occupant agreement is in question and the property owner cannot be reached
- Questionable Identification – inability to provide verifiable or valid identification.

Customer Deposit. The purpose of a customer deposit is to try to ensure that all utility charges are collected. All new customer accounts are required to pay a deposit. Upon termination of an account, the deposit will be applied to any outstanding balance. Any remaining deposit greater than $5.00, after applying to the outstanding balance, may be refunded. The amount of the deposit shall be set by Town Council (Rate & Fee Schedule).

- Any current customer that does not have a deposit on the account with the Town of Black Mountain whose service is involuntarily terminated for nonpayment, tampering, or other reasons more than twice in any 12- month period, may be required to pay a deposit in the amount described above.
- Any person requesting utility service who has previously had an unpaid balance to the Town may be required to repay this amount, plus pay a deposit.
- The Town has the right to apply the customer deposit to any unpaid utility charges after an account is more than 60 days past due. If all or any portion of a customer deposit is applied to past due charges, and the customer continues to receive utility services, the Town may require the customer to replenish deposit amount that may added to bill upon approval and subject to disconnection for nonpayment.
- Any customer that elects not to disclose their social security number will be considered a "high-risk," due to our inability to verify identity. Deposits will be calculated in the high risk tier.

Refund of Deposit. The Town reserves the right to retain deposits indefinitely to assure payment of utility charges. No interest may be paid upon deposited amounts. However,the Town may elect to refund deposits in the following situations provided the account is at a zero balance:

- Deposits on accounts within 24 consecutive months of good paymenthistory (no late fees, insufficient funds penalties, or service disconnections) may be applied to the existing utility account; or
- Upon customer request for termination of service and Town determination that either the residence or business may remain vacantor another responsible person has applied for service.

No refunds may be made for amounts less than $5.00.

Voluntary Disconnection of Service.

- **Temporary**. In the event a customer will not occupy a residence for an extended period and requests water to be turned off at the meter, utility base charges may be billed during this time. A premise visit may be charged to turn on/off the meter at each property/account.
- **Termination of Service**. It is the responsibility of the utility account owner(s) to complete and return a disconnection request form at least 2 business days prior to the requested service end date. Failure to notify the town of needed utility disconnection could result in additional usage and billing fees, for which the account holder will be responsible.

Permanent or Indefinite Disconnection of Services. In the event a residence is demolished, condemned, or court ordered abandoned, the customer/property owner or legal representative may request that the meter on the property be removed at the currently approved charge per the Fee Schedule. Town approved documentation must be received before meter services may be removed. If the meter is removed, and service discontinued, the base charge may not be applied to the account. If the service is not disconnected and the customer resumes using utility services, the Town retains the right to bill for past services not to exceed two years.

Meter Tampering. The Town does not allow for any unauthorized person(s) to open a meter box to interfere, alter, tamper with, or bypass a meter which has been installed for the purpose of measuring the use of water or knowingly to use water passing through any such tampered meter or water bypassing a meter provided by the Town for the purpose of measuring and registering the quantity of water consumed. Per Town of Black Mountain Ordinance 20-21, Any meter or service entrance facility found to have been altered, tampered with, or bypassed in a manner that would cause such meter to inaccurately measure and register the water consumed, or which would cause the water to be diverted from the recording apparatus of the meter, shall be prima facie evidence of intent to violate and of the violation of this section by the person in whose name such meter is installed, or the person or persons so using or receiving the benefits of such unmetered, unregistered, or diverted water. Any person(s) not authorized by the Town operating any valves on the water distribution system, which included the cut off valve at the meter, hydrants, etc. shall be charged with tampering. Per North Carolina General Statute 14-151.1

- Any person violating any of the provisions may be liable to the Town any losses and shall also be charged for the cost to repair and or replace any damages sustained. A fine may be charged per occurrence per the most recently approved Fee Schedule.
    - First Occurrence-notification letter to the property owner
    - Second Occurrence-notification and fine
    - Third Occurrence-notification, fine which may include anyadditional civil or criminal charges including recover of water lossor damage to Town property.
- If water is cut on illegally after disconnection due to nonpayment of a utility bill, this may cause the removal of the water meter and may result in additional charges. Reestablishing services may incur additional charges which may include deposits, fines and payment of all charges on the account before reconnection.
- The Town may make a reasonable effort to hold tenants responsible for any damages associated, or loss recovery of water usage. However, if the tenant is not available, the landlord or property owners may be responsible for any fines, damages associated, or loss recovery of water usage.

Waste of water. Failure to repair utility services within 60 days from first notification, high usage bill or detection by the Town or property owner, may result in the Town disconnection of utility service until the leak has been repaired. Approved Town documentation must be submitted and approved before services may be restored.

Utility Billing Procedures

The Town of Black Mountain Utility Customer Service Department bills for Water and Sewer Services

Billing

- Bills shall be prepared monthly and are as close to 30 days as practicable.
- Bills are due 20 days from the billing date.
- Payment may be made by check,money order, bank ACH draft, credit card, or in cash. Payments may be made online or in person.
- All bills not paid within 20 days are subject to late penalty of $10.00 or 5% whichever is greater of the unpaid balance.
- If payment is not received and receipted by the 20th day at 5 pm, a late charge may be added to the customer's account.
- All bills not paid within 35 days of billing date are subject to disconnect.
- If payment is not received by the 35th day before 5 pm, a Utility Non-payment Fee, per the most recently approved Fee Schedule, may be added to the customer's account, and the account is subject to disconnection.
- To restore service, the entire account balance, including fees, must be paid in full.
- If a bill is returned to the Town of Black Mountain by the post office or email as undeliverable, the Utility Customer Service Department shall make all reasonable efforts to obtain a forwarding address and correct the address in the Utility records. In the event the bill becomes delinquent, the Utility Customer Service Department shall follow the collection efforts below. Customers are responsible for all billing regardless of receiving a monthly bill.
- Payments may be applied to customer accounts in the following order; fees or miscellaneous charges, water, and sewer charges.
- It is the responsibility of the property owner, account holder, or authorized designee to advise the Town to whom and to what address bills are to be sent (e.g. new owner or renter). A Utility Billing Change Form is available from the Utility Customer Service Department for any changes that are necessary to an update an account. Only an account holder or authorized party can request changes to billing information and statuses.
  - If the Town has overcharged or undercharged a customer for service, the Town may correct this error subject to the following procedures:
    - If the Town has overcharged a customer for service, the Town may credit the customer's account, without interest, the excess amount and notify the customer by letter. In the event of a significant credit Customers may request a refund of such excess charges if they were previously paid in full. Credit to a customer's account is subject to the following limitations:
    - If the time period over which the mistake occurred can be determined, the Town should credit or refund the excess amount charged the account for that entire interval, provided that such time period shall not exceed the statute of limitations as set forth

in the N.C. General Statutes.

- If the time frame of the problem cannot be determined, the Town should credit or refund the excess amount charged during the previous 12 months.
- If an overcharged customer owes a past due balance to the Town, the Town will deduct that past due amount from any refund or credit due the customer.

- If the Town has undercharged a customer for service, the Town may collect the additional amount due the Town by billing the account. A payment plan or other payment options may be extended to a customer for repayment of charges billed from prior billing periods. If a customer receives notice of undercharging and does not contact the Town to make payment arrangement for such amount by the subsequentdue date, the account may be disconnected for non-payment in accordance with this policy.
- If an undercharge has occurred because of tampering or bypassing a meter or because of other fraudulent or willfully misleading action of the customer, the Town shall collect the entire undercharged amount in a lump sum and seek such other rights and remedies as are permitted by law.

Returned payments.

- Payments returned due to insufficient funds, closed accounts, or other issue not related to a Town error may be charged a fee according to the current fee schedule. If the return was due to Town error, the fee may be waived.
- Customers may lose the ability to use a payment method for two years if a payment has been returned due to insufficient funds, closed accounts, or other issue not related to a Town error two times in a 12-month period.
- Customers who do not make good on any returned payment and applicable fees may be considered to have not made any payment and may be subject to procedures for late charges and disconnection of service.
- The Utility Customer Service Department may also send a letter notifying the customer of these events and request replacement funds or alternative payment method.
- Payment return fees may be added to the account and must be paid with other past due charges to continue Utility service.
- Returned payments made by a customer to avoid disconnection on an account may be subject to immediate disconnection. All fees and account balances including a Nonpayment Service Disconnection Charge must be paid before service is reconnected

Collection of Past Due Utility Charges.

- *Accounts 20 days past due.* A cut off notice may be mailed when a bill is 20 days past due. If payment is not received by 5 pm on the 35th day, a Utility non-payment fee in accordance with the fee schedule in effect at that time may be added to the customer's account. The account may then be disconnected.
- *Accounts over 90 days*. If payment is not received within 90 days, the Town may take one or more of the following actions, as to the most optimum method of securing payment:
  - The Utility Customer Service Department may send the name, address, and balance due to the Town's collection agency or NC Debt Setoff Program.
  - The terms of the nonpayment may be communicated to any or all nationally recognized credit reporting agencies.
  - Customer may be denied access to Utility services.
  - Remaining balances on terminated accounts may be transferred to a customer's active utility account for collection of charges due. These charges may be subject to the disconnection policy and may cause the active account to be disconnected for nonpayment.

Extended Payment Option.

Payment plans may only be available for past due balances related to leaks or accounts that are back billed for previously unbilled usage. Accounts that have past due charges related to regular monthly billing will not be eligible for payment plans. The Utility Customer Service Department will review the account to establish a payment plan for the customer. The customer will be required to sign a payment plan form specifying the terms of the payment plan. Customer must continue to pay regular monthly charges plus a portion of the back billing or a leak bill(s). If a customer has any returned, missed, or delinquent payments on the account, the payment plan may be voided, and the balance will be due immediately.

Deceased Account Holder/ Estate Account

When an account holder is deceased, a Utility Billing Change Form or New Service Application must be completed in order to transfer an account into the name of the responsible party within 45 days. The Town may request legal documentation including, but not limited to, death certificates, wills, or other legal documents to process the utility billing change request. If the Town of Black Mountain receives notice or determines that an account holder is deceased, notification of account closure may be mailed to the address on record. The letter may set forth a date in which a Utility Billing Change Form must be received to continue services at the location of the deceased account holder. An Application for Utility Services must be filled out and the application process must be completed in accordance with this policy.

An account may be transferred into the ownership of an estate. A Utility Billing Change Form is required, and the Town may request legal documentation from the executor or the person responsible for administrating an estate. It is the responsibilityof the executor or other person administrating the estate to notify the Town of any changes in account status. The Town of Black Mountain may allow an account to remain in the name of an estate for a period of 4 months from the date of service connection. It is the responsibility of the executor or administrator of the estate to either disconnect or transfer ownership of the account into the name of a responsible person prior to this date. If an application has not been processed to transfer ownership of the account in the timeframe specified, services may be disconnected without further notice.

Premise Visit Charge

A premise visit charge, per the Town Fee Schedule, may be charged for services performed by Town staff that is not deemed necessary by the Town. Such services include, but are not limited to, re-reading of meters, checking a meter for a possible leak, shutting meter off more than two times during any single leak event while leak on the customer's side is being repaired and the testing of meters for accuracy. The Town may charge premise visit fee for services that require multiple visits to a property. Such services include, but are not limited to, leaks, temporary disconnection for repairs or any other services.

Consideration of Credits and Refunds

Refunds

No refunds less than $5.00 may be made on a customer's account.

Credits and Adjustments

Filling Swimming Pools

The Town does not allow adjustments for filling pools or spas. Customers may contact MSD of Buncombe County to request a credit for the sewer portion of the bill. Customers may also apply for a separate irrigation meter to fill pools or spas which may not charge for sewer usage.

Leak Adjustments

The customer is responsible for leakage in the piping on his/her property on his/her side of the water meter and will be charged for water and/or sewer based on water use as indicated on the meter. This is being defined as that point at which the customer's plumbing connects either directly to the meter box or the customers shut off valve connects directly to the meter box. The Town does not repair leaks on the customer's side of the water meter. The Town of Black Mountain may allow credit for utility charges resulting from leaks on the customer's side of the meter.

- Credit may be extended to the customer's account/property only once every 24 calendar months upon approval.
- Customer must submit a completed Leak Adjustment form within 60 days of leak detection either by the Town or the customer.
- Customer must provide to the Town of Black Mountain an invoice from a licensed plumber for repairing the leak(s). This must be accompanied by a statement confirming that a leak (or multiple leaks) had been

repaired, and a description describing where the leak(s) occurred.

- A customer may make their own repairs. If a customer makes their own repairs, all receipts for parts and pictures of the leak site prior to repair and after completion are required to be sent to the Town for approval.
- Leak adjustments may be calculated based on residential customer's average monthly consumption amount plus 25%. Average monthly consumption is based on the four (4) month average prior to the month showing excessive use. If previous consumption is less than 4 previous months, the Town may require 3 additional months of normal usage before adjustment calculation can be processed.
- No credit will be applied to the account until water usage returns to normal.
- No credits or adjustments of $ 5.00 or less may be given unless the cause for the credit or adjustment is an error by the Town of Black Mountain.

TOWN OF BLACK MOUNTAIN TOWN COUNCIL
REQUEST FOR BOARD ACTION
Meeting Date: September 13, 2021

SUBJECT: Technical Correction to Ordinance #O-20-20

AGENDA INFORMATION

Agenda Location:	**CONSENT AGENDA**
Item Number:	5F
Department:	Town Attorney
Contact:	Town Attorney
Presenter:	Town Attorney

BRIEF SUMMARY: The Office of the Secretary of State wants the annexation ordinance and plat to be recorded in the county Register of Deeds prior to recording in the Secretary's office, and wants the after-recorded annexation plat to be specifically referenced in the ordinance to avoid future confusion as to the exact property annexed

MOTION FOR CONSIDERATION: To approve the proposed technical correction to Ordinance #O-20-20 as presented.

FUNDING SOURCE: N/A

ATTACHMENTS: Proposed Technical Correction to Ordinance O-20-20

MANAGER'S COMMENTS AND RECOMMENDATIONS:

TECHNICAL CORRECTION TO
ORDINANCE #0-20-20

TECHNICAL CORRECTION TO ORDINANCE ANNEXING THAT PROPERTY OF WM C HONEYCUTT JR ET AL, JUDY WOOD, AND NANCY CHAPIN SHOWN ON THAT PLAT RECORDED IN PLAT BOOK 0012 AT PAGE 0027 INTO THE TOWN OF BLACK MOUNTAIN

WHEREAS, the Town of Black Mountain did adopt Ordinance #O-20-20 on February 8, 2021, annexing certain property on Brooks Cove Road into the Town of Black Mountain, which described the property annexed as being 16.46 acres and a part of that property shown on that plat recorded in Plat Book 12 at Page 27, Buncombe County, North Carolina, Registry and further described in a metes and bounds description that was provided with the application for annexation and attached to Ordinand #O-20-20; and

WHEREAS, since the adoption of Ordinance #O-20-20, a plat of the annexed property has been recorded in Plat Book 219 at Page 187, Buncombe County Registry; and

WHEREAS, the annexation ordinance and the annexation plat need to be recorded in the Buncombe County Registry, and it is now the preferred practice of the office of the North Carolina Secretary of State that both the ordinance and the plat be recorded in the local registry prior to filing in the office of the Secretary of State and the Secretary of State strongly recommends that the annexation plat as recorded in the local registry is specifically referenced in the annexation ordinance, even if such plat was not recorded until after adoption of the ordinance.

NOW, THEREFORE, for the sole purpose of amending Ordinance #O-20-20 to include the reference to the annexation plat recorded after the adoption of said Ordinance, the Town Council of the Town of Black Mountain does hereby amend Ordinance # O-20-20 to recite that the annexed property is all that property described on that plat recorded in Plat Book 219 at Page 187, Buncombe County Registry.

I move the adoption of the foregoing technical correction to Ordinance #O-20-20.

____
Council Member

READ APPROVED AND ADOPTED as a part of the Consent Agenda by a vote of ____ to _____, on the 13th day of September, 2021.

____
Larry B. Harris, Mayor

ATTEST:

____
Savannah Parrish, Town Clerk

Approved as to form:

____
Ronald E. Sneed, Town Attorney

TOWN OF BLACK MOUNTAIN TOWN COUNCIL
REQUEST FOR COUNCIL ACTION
Meeting Date: September 13, 2021

SUBJECT: American Rescue Plan Professional Services Contract

AGENDA INFORMATION

Agenda Location:	**NEW BUSINESS**
Item Number:	8A
Department:	Administration
Contact:	Josh Harrold, Town Manager
Presenter:	Josh Harrold, Town Manager

SUMMARY: Staff would like to enter a contract with LOSRC to perform administration, contracting, and reporting for the ARP funded waterline project on US 70. The administration requirements for these funds are tedious and time consuming.

MOTION FOR CONSIDERATION: To approve contract for professional services.

FUNDING SOURCE: ARP funds

ATTACHMENTS: Contract

MANAGER'S COMMENTS AND RECOMMENDATIONS: Adopt as presented.

Contract No.____________________

Contract with: Town of Black Mountain (*ARP)*

Professional Services Contract

August 20, 2021 – December 1, 2024

THIS AGREEMENT, made _August 20, 2021__ by and between Land of Sky Regional Council, hereinafter called the "Council", and the Town of Black Mountain, hereinafter called the "Town."

WITNESSETH:

WHEREAS, the Council is empowered to provide technical assistance by the North Carolina General Statutes and by resolution passed by the Council on April 17, 1972. Technical assistance shall consist of the provisions of services as described in Attachment A, which is herein made part of this Contract;

WHEREAS, the Local Government has requested the Council to provide such technical assistance to the Local Government and;

WHEREAS, the Council desires to cooperate with the Local Government in every way possible to the end that the proposed activities are carried out in an efficient and professional manner;

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. Personnel and Scope

   That during the period of this Contract, the Council will furnish the necessary trained personnel to the Local Government. The Council personnel will provide professional services to ensure compliance with ARP guidelines, Federal project management, and required reporting.

   Scope of Work will include assistance in administration of the Town's American Rescue Plan (ARP) projects as directed by the Town Manager. It is understood that priority changes and/or substitutions may be made by the Town Manager as needed.

2. Compensation

   That for the purpose of providing funds for carrying out this Contract, the Local Government will pay the Council a fee of 10% of the amount of the project costs. These technical assistance fees will be billed on a monthly basis to complete specific requests, as directed by the Town Manager. The initial Water Line extension project is anticipated at $500,000 total investment with a fee of $50,000 to administer. Additional projects can be added under this contract at the direction of the Town through an addendum.

3. Termination/Modifications

   The Local Government or Council may terminate the contract by giving a thirty-day written notice to the other entity. Furthermore, if there is a need to amend the Agreement either party may do so with the written consent of the other.

4. Time of Performance

   The Council shall ensure that all services required herein shall be completed and all required reports, maps, and documents submitted during the contract period of August 20, 2021 through December 1, 2024.

5. Changes

   The Local Government may request changes in the scope of work or services to be performed by the Council hereunder. Such changes, including any increases or decreases in the Council's compensation, which are mutually agreed upon by and between the Local Government and Council, shall be incorporated as written amendments to the Contract.

6. Interest of Members, Officers, or Employees of the Council, Members of the Local Government, or Other Public Officials

   No member, officer, or employee of the Council or its agents; no member of the governing body of the locality in which the program is situated; and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his or her tenure or for one year thereafter, shall have any financial interests, either direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under this Agreement. Immediate family members of said members, officers, employees, and officials are similarly barred from having any financial interests in the program. The Council shall incorporate, or cause to be incorporated, in all such contracts or subcontracts, a provision prohibiting such interest pursuant to the purpose of this section.

7. Nondiscrimination Clause

   No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination with any program or activity funded in whole or in part with funds available under the Housing and Development Act of 1974, Section 109.

8. Age Discrimination Act of 1975, as amended

   No qualified person shall on the basis age be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives benefits from federal financial assistance.

9. Section 504, Rehabilitation Act of 1973, as amended

   No qualified handicapped person shall, on the basis of handicap be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from federal financial assistance.

10. E-Verify Provision

    Pursuant to G.S. 143-48.5 and G.S. 147-33.95(g), the undersigned hereby certifies that the Contractor named below, and the Contractor's subcontractors, complies with the requirements of Article 2 of Chapter 64 of the NC General Statutes, including the requirement for each employer with more than 25 employees in

North Carolina to verify the work authorization of its employees through the federal E-Verify system. E-Verify System Link: www.uscis.gov

11. Indemnification

a. To the extent allowed by law, the Council agrees to indemnify, hold harmless and defend the Town as well as its directors, officers, employees and agents against all claims for personal injury or property damage or both, including reasonable attorney's fees and the cost of defense resulting or alleged to result from any act or omission of the Council or its employees or agents in performing or failing to perform any of its obligations under this Agreement.

b. To the extent allowed by law, the Town agrees to indemnify, hold harmless and defend the Council as well as its directors, officers, employees and agents against all claims for personal injury or property damage or both, including reasonable attorney's fees and the cost of defense resulting or alleged to result from any act or omission of The Town or its employees or agents in performing or failing to perform any of its obligations under this Agreement.

IN WITNESS WHEREOF, each party has caused this Agreement to be duly executed on the day and year first above written.

Town of Black Mountain	Land of Sky Regional Council
By: ______________________	By: ______________________
Title: Town Manager	Title: Executive Director
Date: ______________________	Date: ______________________

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

______________________, Finance Officer Date __________

TOWN OF BLACK MOUNTAIN TOWN COUNCIL
REQUEST FOR BOARD ACTION
Meeting Date: September 13, 2021

SUBJECT: Sewer line Easement for Veteran's Park Bathrooms (PARTF)

AGENDA INFORMATION
Agenda Location: **NEW BUSINESS**
Item Number: 8B
Department: Administration
Contact: Josh Harrold, Town Manager
Presenter: Josh Harrold, Town Manager

SUMMARY: In order to complete the bathrooms as outlined in the PARTF grant agreement, the Town will need to acquire an easement from the property owner located at 850 Blue Ridge Road. Staff has spoken with the property owner numerous times and the requested amount to acquire the easement is $9,000. Staff needs a decision in order to move forward with the project.

MOTION FOR CONSIDERATION: To approve or deny purchasing the easement.

FUNDING SOURCE: General Fund

ATTACHMENTS: N/A

MANAGER'S COMMENTS AND RECOMMENDATIONS: N/A