Amended

TOWN OF BLACK MOUNTAIN

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

Date: August 14, 2023 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 Town Council** to download materials for all Town board 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 Savannah Parrish at 419-9310, or by email at town.clerk@tobm.org
(828) 419-9300 / TDD (800) 735-2962

1. CALL TO ORDER

- Welcome
- Pledge of Allegiance
- Invocation – *Moment of Silence*
- Announcements – *Mayor Sobol*
- Ethics Statement: *In accordance with the Code of Ethics adopted by the Council, all council members have a duty to conduct the affairs of the governing board in an open and public manner free of conflicts of interest. Is there any item on the agenda the outcome of which will have a direct, substantial, and readily identifiable financial impact for any Council member, his or her family or close business associates? Does any council member have a financial interest in any public contract coming before this Council today? There being none, all Board members have a duty and obligation to vote.*

2. PROCLAMATIONS, AWARDS, RECOGNITIONS

A. Citizen Recognition – *Steve Parker, Police Chief*

B. Recognition of Babe Ruth 8U All-Star Team – *Josh Henderson, Parks and Recreation Director*

C. Recognition of Black Mountain Stingrays Swim Team – *Josh Henderson, Parks and Recreation Director*

3. CITIZEN COMMENTS

*Individuals wishing to address the Board are asked to sign in at the entrance to the board 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 Board. **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.*

4. COMMUNICATIONS FROM STAFF, COUNCILS, COMMISSIONS & AGENCIES

A. Auditors Report 2022 – *Travis Keever, Gould Killian CPA Group*

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 – *Savannah Parrish, Town Clerk*

Minutes of the July 6, 2023 Agenda Meeting and the July 10, 2023 Regular Meeting

B. Fire Truck Financing – *Josh Harrold, Town Manager*

C. Patrol Car Financing – *Josh Harrold, Town Manager*

D. Call for Public Hearing for Text Amendment to Conditional Zoning - *Jessica Trotman, Planning Director*

E. Call for Public Hearing for Text Amendment to the Primary Fire District - *Jessica Trotman, Planning Director*

F. Call for Public Hearing for Map Amendment to the Primary Fire District - *Jessica Trotman, Planning Director*

G. Approval of Amendment #1 - Preliminary Engineering - Client Agreement Project EB5547-A – *Josh Harrold, Town Manager*

H. Approval of Amendment #2 - Preliminary Engineering - Client Agreement Project EB5547-B – *Josh Harrold, Town Manager*

I. Resolution to Enter into a Contract for Engineering & Grant Administration Services for the Veterans Park Streambank Restoration -FEMA PROJECT # 436912 – *Angela Reece, Project & Facilities Manager*

***Motion*: I move that the Town Council approve consent items A – J as presented.**

6. CITIZEN COMMENTS

*The chair will recognize individuals requesting to address the Board 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.*

7. PUBLIC HEARING

*The chair will recognize individuals requesting to address the Board 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.*

A. Public Hearing for Text Amendment to Vested Rights

SUGGESTED MOTIONS:

1. To open the public hearing for Ordinance #O-23-14 for amendments to vested rights.

2. To close the public hearing.

3. To adopt Ordinance #O-23-14 (statement of consistency included) as presented [or as amended].

7. UNFINISHED BUSINESS

8. NEW BUSINESS

A. NCDEACS - Recycling Cart Grant Funding – *Josh Harrold, Town Manager*

Motion: *To accept or deny the NCDEASCS Recycling Cart Grant Funding.*

B. Ordinance #O-23-11 for Amendments to Active Mobility Commission – *Josh Harrold, Town Manager*

Motion*:** *To approve* ***Ordinance #O-23-11 *as presented [or as amended].*

C. Maintenance for Rapid Response Flashing Beacons – *Josh Harrold, Town Manager*

***Motion*:** *To approve or deny the request as presented.*

D. Board Appointments

1. *Recreation Commission – 5 applications received for two vacancies – Sally Cochran and David Galloway are recommended by the Commission.*
2. *Active Mobility Commission – 1 application received for two vacancies.*
3. *Historic Preservation Commission – 1 application received for one vacancy.*
4. *ABC Board Chair Appointment*

8. **COMMUNICATION**

1. Town Attorney – Craig Justus
2. Town Manager – Josh Harrold

9. COMMUNICATION FROM MAYOR AND TOWN COUNCIL

10. ADJOURNMENT

TOWN OF BLACK MOUNTAIN

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

Date: June 6, 2023 Time: 5:00 p.m. Agenda Workshop Minutes

THE BLACK MOUNTAIN TOWN COUNCIL held their regular agenda workshop meeting on Thursday, June 6, 2023, at 5:00 p.m. in the board room of Town Hall, 160 Midland Avenue, Black Mountain NC.

1. CALL TO ORDER

Mayor C. Michael Sobol called the meeting to order at 5:00 p.m. with the following members in attendance:

Mayor C. Michael Sobol
Vice Mayor Archie Pertiller
Council Member Alice Berry
Council Member Bill Christy
Council Member Doug Hay
Council Member Pam King

The following staff members were present:
Josh Harrold, Town Manager
Savannah Parrish, Town Clerk

Town Manager, Josh Harrold, presented the proposed agenda to the Town Council.

Manager Harrold informed the Town Council that he would not be present for the July 10 regular meeting. Town Clerk Savannah Parrish will assume Manager Harrold's role for the July meeting, and Manager Harrold will participate if needed via Microsoft Teams.

Councilmember Bill Christy referenced the comments that Mayor Sobol made at the start of the June 14, 2023 Budget Public Hearing. Councilmember Christy noted that there was not an announcement section on that particular agenda and requested that the agenda be followed as approved by the Town Council. There was some discussion.

Councilmember Pam King moved to approve the agenda as presented. The motion was approved by a vote of 5-0.

2. ADJOURNMENT

There being no further business, Mayor C. Michael Sobol adjourned the meeting at 5:17 p.m.

ATTEST:

_____
C. Michael Sobol, Mayor

_____
Savannah Parrish, Town Clerk

TOWN OF BLACK MOUNTAIN

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

Date: July 10, 2023 Time: 6:00 p.m. Regular Session Minutes

THE BLACK MOUNTAIN TOWN COUNCIL held their regular meeting on Monday, July 10, 2023, at 6:00 p.m. in the board room of Town Hall, 160 Midland Avenue, Black Mountain NC.

1. CALL TO ORDER

Mayor C. Michael Sobol called the meeting to order at 6:00 p.m. with the following members in attendance:

Mayor C. Michael Sobol
Vice Mayor Archie Pertiller
Council Member Alice Berry
Council Member Bill Christy – *Absent*
Council Member Doug Hay
Council Member Pam King

The following staff members were present:
Josh Harrold, Town Manager – *Absent, participated via Microsoft Teams*
Craig Justus, Town Attorney – *Absent (Mr. Steve Williamson of Van Winkle Law Firm attended in his place)*
Savannah Parrish, Town Clerk

Mayor Sobol led those in attendance in the pledge of allegiance and a moment of silence, then read the ethics statement.

2. PROCLAMATIONS, AWARDS, RECOGNITIONS

3. CITIZEN COMMENTS

Individuals wishing to address the Board are asked to sign in at the entrance to the board 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 Board. 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.

- Phil Bisesi addressed the Town Council to request that parking on Broadway Ave. be for compact cars only. Mr. Bisesi also expressed concerns about potholes on Highway 9.
- Dana Esposito requested that the Town Council ban Round Up and other glyphosate-based products from being used in town limits, citing health concerns.

- Sharon Tabor, Executive Director of the Black Mountain Chamber of Commerce, spoke to promote the Sourwood Festival and to request volunteers.

4. COMMUNICATIONS FROM STAFF, COUNCILS, COMMISSIONS & AGENCIES

A. Annual Streets Maintenance Report – *Jamey Matthews, Public Works Director*

Public Works Director Jamey Matthews presented the annual report to the Town Council. He reviewed parks maintenance projects. Mr. Matthews stated that the department collected 2,948.32 tons of trash and 377.47 tons of recycling throughout the year. The public works department saw 1,840 town property work orders in 2022.

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

June 8, 2023 Agenda Meeting Minutes, June 12, 2023 Regular Meeting Minutes, closed session meeting minutes from June 8, 2023 and May 8, 2023.

B. Call for Public Hearing for Text Amendment to Vested Rights

C. System Development Fee Capital Reserve Fund Amendment

Councilmember Doug Hay moved to approve the consent agenda as presented. The motion was approved by a vote of 5-0.

6. CITIZEN COMMENTS

The chair will recognize individuals requesting to address the Board 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.

- Larry Pearlman thanked Jamey Matthews and the Public Works Department for all of the work they do for the town.
- Caitlin Giotto requested that the Town Council ban Round Up and other glyphosate-based products from being used in town limits, citing health concerns.

7. UNFINISHED BUSINESS

A. Traffic Policy

This policy establishes consistent procedures for addressing the traffic-related issues that may occasionally arise along roadways within or nearby residential areas in town. Councilmember Berry requested an amendment to the policy to change "impacted residents" to both residents and property owners. There was consensus from the Town Council on the requested change.

Vice Mayor Archie Pertiller moved to approve the proposed traffic policy as amended. The motion was approved by a vote of 5-0.

8. NEW BUSINESS

A. Board Appointments

a. Recreation Commission – ***three applications received for two vacancies.***

The Recreation Commission was unable to meet in June and requested that the Town Council hold appointments to the commission until they are able to review the vacancies.

b. ABC Board – ***one application received for one vacancy.***

Councilmember Doug Hay moved to appoint Larry B. Harris to the ABC Board for a three-year term. The motion was approved by a vote of 5-0.

c. Planning Board – ***two applications received for one vacancy.***

Each member of the Council nominated current planning board member Rick Earley to be reappointed.

Councilmember Doug Hay moved to appoint Rick Earley to the Planning Board. The motion was approved by a vote of 5-0.

d. One application received for Zoning Board (3 alternate positions), Historic Preservation Commission (one vacancy), or Planning Board (one vacancy).

Vice Mayor Archie Pertiller moved to appoint David Hines as an alternate member of the Zoning Board of Adjustment. The motion was approved by a vote of 5-0.

B. Move Illicit Discharge to the Code of Ordinances – *O-23-13*

Illicit discharge, including domestic pet waste and debris in stormwater systems, are not development regulations and therefore need to be moved to the Code of Ordinances in the environmental section. The proposed text amendment removes the illicit discharge section from the Land Use Code and moves it to Chapter 20 of the Code of Ordinances.

Vice Mayor Archie Pertiller moved to approve Ordinance #O-23-13 as presented. The motion was approved by a vote of 5-0.

9. PUBLIC HEARING - None

The chair will recognize individuals requesting to address the Board 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

Town Clerk Savannah Parrish announced Citizen Academy 2023, which beings September 14, 2023. She also reminded the public of the citizen request tracker on the Town's website.

11. COMMUNICATION FROM MAYOR AND TOWN COUNCIL

Mayor Sobol welcomed the Van Winkle Law Firm as the Town Attorney.

Vice Mayor Pertiller thanked everyone involved in the little league tournament at Veterans Park.

12. ADJOURNMENT

There being no further business, Mayor C. Michael Sobol adjourned the meeting at 8 p.m.

ATTEST:

_____
C. Michael Sobol, Mayor

_____
Savannah Parrish, Town Clerk

TOWN OF BLACK MOUNTAIN

AGENDA ITEM SUMMARY

SUBMITTER: Josh Harrold, *Town Manager* **MEETING DATE:** August 14, 2023

AGENDA SECTION: CONSENT AGENDA DEPARTMENT: Administration

TITLE OF ITEM: Demo Fire Truck Financing – *Josh Harrold, Town Manager*

SUGGESTED MOTION(S):

SUMMARY: At the June 12th 2023 Town Council meeting, the Council voted to purchase a demo fire truck for the Fire Department at a cost of ~$700,000. We made a large down payment from the capital reserve fund in the amount of $300,000. Staff requests to finance the remaining balance of $400,000.

BUDGET IMPACT: No impact for FY23-24

Is this expenditure approved in the current fiscal year budget? no

If no, describe how it will be funded. Installment purchase financing

ATTACHMENTS: Finance options

FIRST BANK

August 7, 2023

Josh Harold, Town Manager
Town of Black Mountain
160 Midland Ave
Black Mountain, NC 28711

Josh:

Thank you for allowing First Bank the opportunity to submit a financing proposal for the purchase of a Fire Truck. It is noted that the town qualifies for tax exempt interest pricing. The terms of this non-binding proposal are as follows:

Borrower:	Town of Black Mountain
Loan Amount:	$400,000 (up to 100% financing for a Fire Truck)
Type of Loan:	Term Loan
Interest Rate:	5.51% (Tax Exempt Rate)
Term:	10 years
Repayment:	Principal & Interest Payments for the fully amortizing loan. Payments can be set up on a monthly or quarterly basis.
Prepayment Penalty:	None
Loan Fee:	None
Collateral:	1st lien position on the Fire Truck.
Appraisal:	The invoice will serve as the valuation. No additional appraisal will be required.
Closing Costs:	None from the bank
Miscellaneous:	First Bank may require additional documentation as may reasonably be necessary.
Assignment:	This proposal is issued to the borrower and cannot be assigned by the borrower without the written consent of First Bank.
Expiration:	The terms of this proposal will expire if not accepted by August 18, 2023 and/or closed by September 30, 2023.

This is a proposal, not a commitment. The commitment will be based on the Bank's review of the Borrower's and Guarantor's current financials and other supporting documents and obtaining final approval by the Bank. The proposed rate and terms are reliant upon borrower's prompt response to proceed with full underwriting. An extended borrower response timeframe could allow changes in market conditions and interest rate pricing.

Thank you again for allowing First Bank the opportunity to submit this proposal. If you have any questions, please feel free to call me at 828-712-3981.

Sincerely,

Scott Crawford
Senior Vice President
First Bank
11 Church Street
Asheville NC, 28801

TOWN OF BLACK MOUNTAIN

AGENDA ITEM SUMMARY

SUBMITTER: Josh Harrold, *Town Manager* **MEETING DATE:** August 14, 2023

AGENDA SECTION: CONSENT AGENDA DEPARTMENT: Administration

TITLE OF ITEM: Patrol Car Financing – *Josh Harrold, Town Manager*

SUGGESTED MOTION(S):

SUMMARY: With the adoption of the FY23-24 budget, staff is ready to purchase the 3 patrol vehicles approved in the budget. We will continue to take on debt to finance patrol vehicles, as we did last year. This allows us to maximize the useful life of the vehicles and enables us to sell the vehicles on a 5 year rotation to maximize our return on investment.

BUDGET IMPACT: Budgeted expenditure

Is this expenditure approved in the current fiscal year budget? yes

If no, describe how it will be funded. Installment purchase financing

ATTACHMENTS: Finance options

FIRST BANK

August 7, 2023

Josh Harold, Town Manager
Town of Black Mountain
160 Midland Ave
Black Mountain, NC 28711

Josh:

Thank you for allowing First Bank the opportunity to submit a financing proposal for the purchase of Police Cars. It is noted that the town qualifies for tax exempt interest pricing. The terms of this non-binding proposal are as follows:

Borrower:	Town of Black Mountain
Loan Amount:	$200,000 (up to 100% financing for Police Cars)
Type of Loan:	Term Loan
Interest Rate:	5.31% (Tax Exempt Rate)
Term:	4 years
Repayment:	Principal & Interest Payments for the fully amortizing loan. Payments can be set up on a monthly or quarterly basis.
Prepayment Penalty:	None
Loan Fee:	None
Collateral:	1st lien position on the Police Cars.
Appraisal:	The invoice will serve as the valuation. No additional appraisal will be required.
Closing Costs:	None from the bank
Miscellaneous:	First Bank may require additional documentation as may reasonably be necessary.
Assignment:	This proposal is issued to the borrower and cannot be assigned by the borrower without the written consent of First Bank.
Expiration:	The terms of this proposal will expire if not accepted by August 18, 2023 and/or closed by September 30, 2023.

This is a proposal, not a commitment. The commitment will be based on the Bank's review of the Borrower's and Guarantor's current financials and other supporting documents and obtaining final approval by the Bank. The proposed rate and terms are reliant upon borrower's prompt response to proceed with full underwriting. An extended borrower response timeframe could allow changes in market conditions and interest rate pricing.

Thank you again for allowing First Bank the opportunity to submit this proposal. If you have any questions, please feel free to call me at 828-712-3981.

Sincerely,

Scott Crawford
Senior Vice President
First Bank
11 Church Street
Asheville NC, 28801

TOWN OF BLACK MOUNTAIN

AGENDA ITEM SUMMARY

SUBMITTER: Jessica Trotman, *Planning Director* **MEETING DATE:** August 14, 2023

AGENDA SECTION: CONSENT **DEPARTMENT:** Planning

TITLE OF ITEM: Call for Public Hearing for Text Amendment to Conditional Zoning

SUGGESTED MOTION(S):

To call for the public hearing to amend text for conditional zoning to be held on Monday, September 11, 2023, at 6:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 160 Midland Avenue.

SUMMARY:

When the conditional zoning ordinance was first created, it did not include TND and ICD, as they were master planned districts. The amendment will add them to the list of conditional zoning districts so that the developments can apply for conditional zoning.

BUDGET IMPACT:

Is this expenditure approved in the current fiscal year budget? N/A

If no, describe how it will be funded. N/A

ATTACHMENTS:

Ordinance #O-23-15

ORDINANCE #0-23-15

AN ORDINANCE TO AMEND APPENDIX A, LAND USE CODE, CHAPTER 4, SECTION 4.6.2, CONDITIONAL ZONING DISTRICTS

WHEREAS, the Town of Black Mountain Planning Board is charged with reviewing and updating land use planning, zoning and subdivision regulations; and

WHEREAS, the Planning Board made a commitment to the Town Council to review the text of the Land Use Code in the years since its adoption to address any residual inconsistencies in the text and to look for opportunities to clarify or improve text; and

WHEREAS, upon recommendation of the Planning Board, the following text amendment is consistent with the comprehensive plan and reasonable in the public interest because it supports design principle one and two for quality design and infrastructure and allows the tools to enable smart and orderly growth.

WHEREAS, the Town of Black Mountain has the authority, pursuant to Article 7 of Chapter 160D of the North Carolina General Statutes, to adopt land development regulations, clarify such regulations, and may amend regulations from time to time in the interest of public health, safety and welfare; and

WHEREAS, the Town Council finds that the land use code text amendment is consistent with the comprehensive plan and is reasonable and in the public interest because of the following findings:

- Promotes quality design and infrastructure and enables smart and orderly growth.

WHEREAS, after notice duly given, a public hearing was held on September 11, 2023, as part of the regularly scheduled Town Council meeting at 6:00 p.m. in the Council Room of Town Hall, 160 Midland Avenue.

NOW, THEREFORE, BE IT RESOLVED that Chapter 4, Section 4.6.2 of the Town of Black Mountain Land Use Code, be amended with the following (additions are underlined in bold and deletions are shown as red struck text):

4.6.2 Conditional zoning districts established.

A. Conditional zoning districts are established to provide flexibility in the development of property while ensuring that proposed development is compatible with neighboring uses. Conditional districts allow for uses or development of land not otherwise permitted in the underlying base district. Conditionally zoned property may be subject to additional conditions, standards and regulations to ensure that the development and use of the property are compatible with the surrounding uses and consistent with the comprehensive plan and other plans adopted by the town. Conditional zoning should not be used to relieve hardships that could be resolved by issuance of a variance.

B. Conditional zoning districts. the following conditional zoning districts are established:

1. Conservation residential conditional zoning district (CR-1 CZ)
2. Suburban residential conditional zoning district (SR-2 CZ)
3. Town residential conditional zoning district (TR-4 CZ)
4. Urban residential conditional zoning district (UR-8 CZ)
5. Office and institutional conditional zoning district (OI-6 CZ)
6. Neighborhood mixed use conditional zoning district (NMU-8 CZ)
7. Central business conditional zoning district (CB CZ)
8. Highway business conditional zoning district (HB-8 CZ)
9. Light industrial conditional zoning district (LI-8 CZ)
10. Heavy industrial conditional zoning district (HI-0 CZ)
11. **Traditional neighborhood development conditional zoning district (TND-CZ)**
12. **Institutional campus district conditional zoning district (ICD-CZ)**

READ, APPROVED AND ADOPTED, by a vote of _____ to _____ on this the 11th day of September 2023.

_____
C. Michael Sobol, Mayor

ATTEST:

_____
Savannah Parrish, Town Clerk

LEGAL NOTICE

BLACK MOUNTAIN TOWN COUNCIL

PUBLIC HEARING

Monday, September 11, 2023, at 6:00 p.m.

The Black Mountain Town Council will meet on **Monday, September 11, 2023, at 6:00 p.m**. in the Council Room in the Town Hall Building, 160 Midland Avenue, Black Mountain, NC. The purpose of this meeting is to hold a public hearing to amend text for conditional zoning.

The meeting is open to the public.

Savannah Parrish
Town Clerk

The Town of Black Mountain is committed to providing accessible facilities, programs and services for all people in compliance with the Americans with Disabilities Act (ADA). Should you need assistance or a particular accommodation for this meeting please contact, Savannah Parrish, Town Clerk at 419-9310 or by email at townclerk@townofblackmountain.org.

Posted to the Town Bulletin Board 08/17/23
Published in the Black Mountain News 08/24/23 and 08/31/23

www.townofblackmountain.org

Jennifer Tipton

From: Jessica Trotman
Sent: Monday, July 24, 2023 3:29 PM
To: Jennifer Tipton
Subject: FW: primary fire district memo - planning board tonight

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From: John Coffey <john.coffey@tobm.org>
Sent: Monday, July 24, 2023 3:25 PM
To: Jessica Trotman <jessica.trotman@tobm.org>
Subject: Re: primary fire district memo - planning board tonight

Regarding the A-2 occupancy at 102 Church Street and adjoining properties, the fire department's main concern is increased fuel loads that will contribute to fire extension to adjacent exterior exposures. Throughout history incidents involving Assembly type occupancies are what has shaped modern day fire code and NFPA recommendations. The probability of incident risk increases further with concentrations of additional combustible materials from an A-2 occupancy unless supplementary suppression systems are in place with more periodic inspections to ensure mitigation of hazards.

Chief John Coffey
Town of Black Mountain Fire Department
106 Montreat Rd, Black Mountain, NC 28711
828-419-9331

Persistence without insight will lead to the same outcome. This is the way.

From: Jessica Trotman <jessica.trotman@tobm.org>
Sent: Monday, July 24, 2023 2:45 PM
To: John Coffey <john.coffey@tobm.org>
Subject: primary fire district memo - planning board tonight

Hi, John,

Can you shoot me an email or memo re: primary fire district for the planning board meeting tonight? Or you could join us at 6pm.

Thank you,
Jessica

Jessica Trotman, MSEH
Planning Director
Town of Black Mountain

TOWN OF BLACK MOUNTAIN

AGENDA ITEM SUMMARY

SUBMITTER: Jessica Trotman, *Planning Director* **MEETING DATE:** August 14, 2023

AGENDA SECTION: CONSENT **DEPARTMENT:** Planning

TITLE OF ITEM: Call for Public Hearing for Text Amendment to the Primary Fire District

SUGGESTED MOTION(S):

To call for the public hearing to amend text for the primary fire district to be held on Monday, September 11, 2023, at 6:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 160 Midland Avenue.

SUMMARY:

The owner of 102 Church Street has requested to be removed from the primary fire district. This parcel is on the edge of the district and removal from the district would allow for the use of combustible materials and require less distance to the property lines. The Fire Department has reviewed this request and expressed concerns, which are summarized in the attached e-mail from Chief Coffey. The Planning Board reviewed this request at their July 24, 2023, meeting and recommended the removal of 102 Church Street from the primary fire district with a vote of 6-0.

BUDGET IMPACT:

Is this expenditure approved in the current fiscal year budget? N/A

If no, describe how it will be funded. N/A

ATTACHMENTS:

Ordinance #O-23-16

ORDINANCE #0-23-16

AN ORDINANCE TO AMEND APPENDIX A, LAND USE CODE, CHAPTER 4, SECTION 4.8.5, FIRE DISTRIC OVERLAY

WHEREAS, the Town of Black Mountain Planning Board is charged with reviewing and updating land use planning, zoning and subdivision regulations; and

WHEREAS, the Planning Board made a commitment to the Town Council to review the text of the Land Use Code in the years since its adoption to address any residual inconsistencies in the text and to look for opportunities to clarify or improve text; and

WHEREAS, upon recommendation of the Planning Board, the following text amendment is consistent with the comprehensive plan and reasonable in the public interest because it supports design principle five for revitalization of the downtown and assumes the same built to form as other structures in the immediate vicinity.

WHEREAS, the Town of Black Mountain has the authority, pursuant to Article 7 of Chapter 160D of the North Carolina General Statutes, to adopt land development regulations, clarify such regulations, and may amend regulations from time to time in the interest of public health, safety and welfare; and

WHEREAS, the Town Council finds that the land use code text amendment is consistent with the comprehensive plan and is reasonable and in the public interest because of the following findings:

Promotes a vibrant mix of businesses, residences, retail, restaurant, entertainment, and civic uses, and a distinctive human-scale character that is cherished by residents and visitors.

WHEREAS, after notice duly given, a public hearing was held on September 11, 2023, as part of the regularly scheduled Town Council meeting at 6:00 p.m. in the Council Room of Town Hall, 160 Midland Avenue.

NOW, THEREFORE, BE IT RESOLVED that Chapter 4, Section 4.8.5.1 of the Town of Black Mountain Land Use Code, be amended with the following (additions are underlined in bold and deletions are shown as red struck text):

4.8.5 – Fire district overlay.

4.8.5.1 Statutory authorization and enactment. In accordance with the requirements of N.C.G.S §160D-1128(B), the Town of Black Mountain hereby establishes a primary fire district.

A. Primary fire district defined. The primary fire district shall be as defined within the legal description set forth herein below. In addition, a map of the affected property, based upon the aforementioned legal description, is available for inspection in the office of the Town

Clerk in the Black Mountain Town Hall and in the Black Mountain Planning and Development Department.

B. For the purposes of this section, the primary fire district shall be described as follows. Primary fire district. Beginning at the intersection of the centerlines of East State Street and Richardson Boulevard; thence running southeasterly along the centerline of Richardson Boulevard to a point where it intersects with the centerline of Sutton Avenue; thence **southwesterly** ~~west~~ along the centerline of Sutton Avenue to the intersection of the centerlines of Sutton Avenue and N.C. Highway 9; continuing **southwesterly** ~~west~~ along the centerline of Sutton Avenue **to where it** ~~which~~ becomes the centerline of South Dougherty Street; thence **northwesterly** ~~northwest~~ along the centerline of South Dougherty Street to **its** ~~the~~ intersection **with** ~~of~~ the centerline of West State Street; thence **northeasterly** ~~northeast~~ along the centerline of West State Street to **its** ~~the~~ intersection **with** ~~of~~ the centerline of Church Street; thence **northwesterly** ~~north~~ along the centerline of Church Street to a point in the centerline of Church Street **at the location where it wouldintersect with the extended southern boundary line of property being** ~~which is an extension of the southern boundary of the property~~ identified **with** ~~as~~ Parcel ID # **061936020000000** ~~0619-10-26-8198.000~~ **and** described in Deed Book **5703** ~~1744~~ at Page **1047** ~~0699~~ in the Office of the Register of Deeds for Buncombe County, thence **northeasterly** ~~east~~ to the **northeastern** ~~southwest~~ corner of said property; thence **westerly** ~~east~~ with the **northern** ~~southern~~ boundary of said property **and the southern boundary of property identified with Parcel ID# 061936039000000 and described in Deed Book 5665 at Page 1604 (a ½ undivided interest) and in Deed Book 5670 at Page 1426 (a ½ undivided interest) in the Office of the Register of Deeds for Buncombe County** ~~to the southeast corner of said property~~; thence **northwesterly** ~~north~~ with the **western** ~~eastern~~ **boundaries** boundary of said property **and the property identified with Parcel ID# 061936033900000 described in Deed Book 5597 at Page 777 in the Officer of the Register of Deeds for Buncombe County** to the **northwest** ~~southeast~~ corner of the **last identified** property**;** ~~identified as Parcel ID # 0619.10-26-8273 described in Deed Book 1384 at Page 0331 in the Office of the Register of Deeds for Buncombe County, thence north with the eastern boundary of said property to the southeast corner of the property identified as Parcel ID# 0619.10-26-8219.000 described in Deed Book 1798 at Page 0360 in the Office of the Register of Deeds fro Buncombe County, thence north with the eastern boundary of said property to the southwestern corner of the property identified as Parcel ID# 0619.10-26-9410.000 described in Deed Book 1788 at Page 0714 in the Office of the Register of Deeds for Buncombe County,~~ thence **northeasterly** ~~east~~ with the **northern** ~~southern~~ boundary of said property to the ~~southeastern corner of said property; thence east to a point which is the intersection of the extension of the southern boundary of said property with the~~ centerline of Montreat Road; thence **southeasterly** ~~south~~ along the centerline of Montreat Road to a point where it intersects with the centerline of East State Street; thence **northeasterly** ~~east~~ along the centerline of East State Street to its intersection with the centerline of Richardson Boulevard**, being** ~~which is~~ the point and place of beginning.

READ, APPROVED AND ADOPTED, by a vote of _____ to _____ on this the 11th day of September 2023.

_____
C. Michael Sobol, Mayor

ATTEST:

_____
Savannah Parrish, Town Clerk

LEGAL NOTICE

BLACK MOUNTAIN TOWN COUNCIL

PUBLIC HEARING

Monday, September 11, 2023, at 6:00 p.m.

The Black Mountain Town Council will meet on **Monday, September 11, 2023, at 6:00 p.m**. in the Council Room in the Town Hall Building, 160 Midland Avenue, Black Mountain, NC. The purpose of this meeting is to hold a public hearing to amend text for the primary fire district.

The meeting is open to the public.

Savannah Parrish
Town Clerk

The Town of Black Mountain is committed to providing accessible facilities, programs and services for all people in compliance with the Americans with Disabilities Act (ADA). Should you need assistance or a particular accommodation for this meeting please contact, Savannah Parrish, Town Clerk at 419-9310 or by email at townclerk@townofblackmountain.org.

Posted to the Town Bulletin Board 08/17/23
Published in the Black Mountain News 08/24/23 and 08/31/2023

www.townofblackmountain.org

TOWN OF BLACK MOUNTAIN

AGENDA ITEM SUMMARY

SUBMITTER: Jessica Trotman, *Planning Director* **MEETING DATE:** August 14, 2023

AGENDA SECTION: CONSENT **DEPARTMENT:** Planning

TITLE OF ITEM: Call for Public Hearing for Map Amendment to the Primary Fire District

SUGGESTED MOTION(S):

To call for the public hearing to amend the map of the primary fire district to be held on Monday, September 11, 2023, at 6:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 160 Midland Avenue.

SUMMARY:

The owner of 102 Church Street has requested to be removed from the primary fire district. This parcel is on the edge of the district and removal from the district would allow for the use of combustible materials and require less distance to the property lines. The Fire Department has reviewed this request and have expressed concerns, summarized in the e-mail from Chief Coffey. The Planning Board reviewed this request at their July 24, 2023, meeting and recommended the removal of 102 Church Street from the primary fire district with a vote of 6-0.

BUDGET IMPACT:

Is this expenditure approved in the current fiscal year budget? N/A

If no, describe how it will be funded. N/A

ATTACHMENTS:

Zoning Map Ordinance #Z-O-23-17

ORDINANCE NO. #Z-O-23-17

AN ORDINANCE AMENDING THE ZONING MAP FOR THE PRIMARY FIRE DISTRICT OVERLAY

WHEREAS, the Town of Black Mountain has the authority pursuant to Article 6 of Chapter 160D of the North Carolina General Statutes, to adopt zoning regulations, to establish zoning districts and to classify property within its jurisdiction according to zoning district, and may amend said regulations and district classifications from time to time in the interest of the public health, safety and welfare; and

WHEREAS, a comprehensive amendment to the Town's zoning regulations was adopted on January 11, 2010, (Ordinance No. #O-10-01) and is codified in Appendix A of the Town of Black Mountain Code of Ordinances (herein "Zoning Ordinance"), and maps dividing and classifying the property within the Town's zoning jurisdiction were adopted on January 11, 2010, Ordinance No. #O-10-01) and are on file and maintained in the Offices of the Town of Black Mountain Planning and Development Department (herein "Official Zoning Map"); and

WHEREAS, this proposed amendment is consistent with the Town of Black Mountain Comprehensive Plan and other official plans of the Town and is determined to be reasonable and in the public interest for the following reasons:

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF BLACK MOUNTAIN TOWN COUNCIL THAT:

The Official Zoning Map be, and the same is hereby, amended as follows:

That parcel described and identified on the Buncombe County tax maps as PIN 0619-36-0200.00000, recorded in Deed Book 5703, Page 1047 and currently owned by Paulson Real Estate, LLC, be removed from the Primary Fire District. A copy of the official zoning map showing said lot is attached hereto as Exhibit "A" and made a part thereof.

This ordinance shall be in full force and effective on the date of adoption.

READ, APPROVED AND ADOPTED, this the 11th day of September 2023.

_____ _____

Savannah Parrish, Town Clerk C. Michael Sobol, Mayor

Approved as to form

LEGAL NOTICE

BLACK MOUNTAIN TOWN COUNCIL

PUBLIC HEARING

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The meeting is open to the public.

Savannah Parrish
Town Clerk

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Posted to the Town Bulletin Board 08/17/23
Published in the Black Mountain News 08/24/23 and 08/31/2023

www.townofblackmountain.org

TOWN OF BLACK MOUNTAIN

AGENDA ITEM SUMMARY

SUBMITTER: Angela Reece, *MPA, MMC, NCCMC,* *Project & Facilities Manager* **MEETING DATE:** August 14, 2023

AGENDA SECTION: CONSENT **DEPARTMENT:** ADMINISTRATION

TITLE OF ITEM: Approval of Amendment #1 - Preliminary Engineering - Client Agreement PROJECT # **EB5547-A** – *Angela L. Reece, Project & Facilities Manager*

SUGGESTED MOTION(S): *I move that Town Council approve Amendment #1 to the Client Agreement for Project EB5547-A with Michael Baker Engineering, Inc. as presented.*

SUMMARY:

NCDOT has approved the contract for the preliminary engineering for EB-5547 Section A. The work will be completed by Michael Baker Engineering. The cost of this contract is $289,811.69.

ATTACHMENTS:

i. NCDOT Approval and Concurrence Letters

ii. Amendment #1 - Preliminary Engineering - Client Agreement – Michael Baker International PROJECT # **EB5547-A**

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

ROY COOPER
GOVERNOR

J. ERIC BOYETTE
SECRETARY

July 14, 2023

Angela Reece
TOWN OF BLACK MOUNTAIN
160 MIDLAND AVE
BLACK MOUNTAIN NC 28711

TIP : EB-5547A
Document : PS_PEF CONTRACT – DESIGN OR ROW
Ref : PS_PEF CONTRACT – DESIGN OR ROW Approval

Dear Angela Reece,

The Department has approved your PS_PEF CONTRACT – DESIGN OR ROW.

Approval Notes:

> 07/14/23: The Department concurs with the PEF Contract Amendment #1 with Michael Baker Intenational on Project EB-5547A for the amount of $289 ,811.69. Please find the letter of concurrence attached to the EBS Portal.

To view approval notes/letters:
1) Log into EBS Portal and select tile “Local Projects”
2) Select “Display Documents” from Main Menu
3) Search for this project by above referenced TIP Number and open
4) Find this Document Type (reference above) with a status of Approved
5) Open activity: approval letter or comments will be attached.

If additional reviews are needed on this Document type, you must submit a new workflow.

Please feel free to contact your Local Project Manager should you have any questions or concern in regards to the above information.

Sincerely,
Madeline Rawley

MRAWLEY@NCDOT.GOV

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

ROY COOPER
GOVERNOR

JAMES H. TROGDON, III
SECRETARY

July 14, 2023

Ms. Jessica Trotman
Director of Planning and Development Services
Town of Black Mountain
160 Midland Avenue
Black Mountain, NC 28711 ***via EBS Portal***

SUBJECT: Concurrence with Consultant Agreement (Amendment #1)
Town of Black Mountain, Buncombe County
Project EB-5547; WBS Element: 51045.1.1; 51045.2.1; 51045.3.1
Federal Aid #: STPDA-1302(62)
Project Name: Riverwalk Phase II Greenway

Dear Ms. Trotman:

The Department of Transportation has reviewed the Draft Consultant Contract submitted to us for the above-referenced project and finds that it meets NCDOT's policies and guidelines. Please note, our review has been limited to ensuring that payment terms are accurate for the scope of work and the estimate is correctly included.

The Municipality should ensure the following:

1. The costs are in-line with the Municipality's budget.
2. The Municipality concurs with the mandays and costs as provided by the consultant.
3. The scope is that which is needed/requested by the Municipality for the project.
4. Any discrepancy in time, dollars, or scope should be addressed by the Municipality with the Consultant.

In order to process reimbursement for eligible costs, we must have a copy of the fully executed consultant agreement. Reimbursement requests will not be processed until we receive this document.

If you have any questions, please contact me at (919) 707-6630. Thank you.

Sincerely,

Madeline Rawley
Local Programs Management Office

Mailing Address:
NC DEPARTMENT OF TRANSPORTATION
TRANSPORTATION PROGRAM MGMT
1595 MAIL SERVICE CENTER
RALEIGH, NC 27699-1595

Telephone: (919) 707-6600
Fax: (919) 212-5711
Customer Service: 1-877-368-4968

Website: www.ncdot.gov

Location:
1020 BIRCH RIDGE DRIVE
RALEIGH, NC 27610

Michael Baker
INTERNATIONAL

Amendment No. 1 to Client Agreement
EB-5547 A

THIS AMENDMENT No. 1 ("Amendment") is made and entered into this _____ day of _____ 20___, by and between Michael Baker Engineering, Inc. (hereinafter "**MICHAEL BAKER**") with offices at 797 Haywood Road, Suite 201 Asheville, NC 28806 and Town of Black Mountain, NC, a municipal government (hereinafter, "**CLIENT**"). Michael Baker and Client may be individually referred to as a "Party" and collectively referred to as the "Parties" herein.

WHEREAS, the Parties entered into a Client Agreement dated January 14, 2019 (the "**Agreement**") (Exhibit "3"), pursuant to which Agreement Michael Baker is performing engineering and technical services for Client described in the Scope of Work set forth in Exhibit "A" to the Agreement, and which services are in connection with the project referred to as RIVERWALK GREENWAY PHASE III - NCTIP #EB-5547 (the "**Project**");

WHEREAS, subsequent to the execution of the Agreement, the CLIENT would like to modify the Scope of Work; and

WHEREAS, it is the intention of the Parties to amend certain provisions and the Scope of Work for the Agreement as set forth in this Amendment.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein and for other valuable consideration, the sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Parties agree that the Agreement is hereby amended as follows:

1. **RECITALS.** The above noted recitals are true and correct and are hereby incorporated into this Amendment by reference.

2. **SCOPE OF WORK.** The Scope of "Work" as defined in paragraph 1 of the Agreement and as set forth in Exhibit "A" to the Agreement is hereby revised and replaced with the attached Exhibit "1" hereto. It is agreed that Michael Baker shall perform such engineering and technical services as are described in the attached Exhibit "1", including any additions or modifications mutually agreed upon and incorporated therein (hereinafter, "**Work**"). As referenced in the attached Exhibit "1", the name of the Project is hereby revised to the following: "NCTIP #EB-5547 A".

3. **COMPENSATION.** It is agreed that CLIENT shall compensate MICHAEL BAKER for the revised Work described in Exhibit "1" in the amount of $289,811.69. It is further agreed that the attached Exhibit "2 A" hereby revises and replaces Exhibit "B" to the Agreement. All other billing, compensation, and payment terms shall remain the same.

4. **CONFLICTS.** Except as modified by this Amendment, the terms and conditions of the Agreement shall remain unchanged and continue in full force and effect. In the event of any conflict between

the terms and conditions of this Amendment or in the Agreement, the terms and conditions of this Amendment shall control.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties have caused this Amendment No.1 to the Agreement to be executed and delivered as of the day and year first above written.

WITNESS: **Michael Baker Engineering, Inc.**

_____ _____

Name: _____

Title: _____

WITNESS: **Town of Black Mountain, NC**

_____ _____

Name: _____

Title: _____

EXHIBIT 1

AMENDED TASK ORDER 1

FOR

CONSULTANT ENGINEERING SERVICES

NCTIP #EB-5547 A

Submitted to:

Town of Black Mountain, NC

By:

Michael Baker Engineering, Inc.

797 Haywood Rd

Asheville, NC 28806

08/30/2022

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Project Background

The Riverwalk Greenway was identified in the 2002 Greenway Master Plan as the "PARK CONNECTOR". Since 2002, iterations of this corridor have been identified in several studies, including the Buncombe County Master Plan (2012), US 70/Swannanoa River Greenway Feasibility Study (2010), the Black Mountain Comprehensive Plan (2014), and most recently, Black Mountain Bike Plan (2016) in which the Riverwalk Greenway consistently ranked as the highest priority of all other potential projects identified.

Preliminary engineering and submittal to a 30% level for the Riverwalk Greenway, which included the 'B' Section (Oaks Connector) of the project, has been completed. After the 30% submittal, subsequent flood modeling was conducted, and it was determined that one occurrence (proposed bridge) located within the northern section of the project was not able to pass the required NCDOT H&H criteria.

An additional section was added to the project referred to as 'A', which connects from the intersection of Black Mountain Avenue and Terry Estates Ave. northward into downtown via Black Mountain Avenue, Vance Avenue, and Hwy 09, terminating at the intersection of Hwy 09 and Sutton Ave (including associated crosswalk and signal improvements).

Section 'A' is a newly defined segment and will begin with a 30% submittal.

It is anticipated that the advertisement, let, and construction administration will be overseen by NCDOT.

Project Description

Michael Baker Engineering, Inc. (Consultant) will be providing preliminary engineering services used to guide the construction of the EB-5547-A bicycle and pedestrian improvements.

Section 'A' will involve preliminary engineering and submittals of 30%, 60%, 90%, and 100% completion levels. Section 'A' will include sidewalk improvements to meet ADA compliance, bike lanes along NC 9 between the Norfolk Southern crossing and Vance Avenue, sharrows along Vance Avenue between NC 9 and Black Mountain Ave, and along Black Mountain Ave between Vance Ave and Terry Estate Dr. IMPROVEMENTS ALONG NC HWY 09 ARE NOT ANTICIPATED TO HAVE IMPACTS ON EXISTING ROADWAY INFRASTRUCTURE, BUT RATHER UTILIZE EXISTING CURB TO CURB FOR IMPLEMENTATOIN OF BIKE LANES. New crosswalks are proposed across two legs of the Black Mountain Avenue at Vance Ave intersection, connecting to the newly installed sidewalk upgrades. New crosswalks are also proposed across three legs of the signalized intersection of NC 9 at Sutton Ave/Norfolk Southern Railroad Crossing. A full signal upgrade is proposed for this signalized intersection to accommodate new pedestrian signals and upgrade to current standards. The length of the 'A' section of the project will total approximately 0.3 miles.

Temporary construction, or permanent utility easements may be needed, otherwise, the entire project is anticipated to remain within NCDOT, and Town of Black Mountain Rights of Way.

Project Goal

The Goal of EB 5547 A is to produce Preliminary Engineering plans, gain regulatory approvals, and gain rights of ways/easements (if necessary) so that the project can be advertised for construction services.

In general, milestones of are:

- 30% submittal and review
- 60% level for submittal and review
- Gain right of way appraisals (if applicable)
- Coordinate and attend public meetings (as required)
- 90% level plans for submittal and review
- 100% level sealed Construction Plans
- Gain necessary permitting approvals

The Consultant will either self-perform or utilize sub-Consultant teaming partners for Tasks 1 through 7.

Authorizations to proceed will be needed prior to initiation of each subsequent submittal.

Approximate Timeline

Duration of Project: 18 months from NTP

A detailed timeline to reflect project milestones with input from Client will be developed upon Notice to Proceed (NTP).

Detailed Scope of Services

The scope below describes services anticipated to provide complete preliminary engineering services for Section 'A' and Section 'B' (Oaks Connector) of the Black Mountain Riverwalk project. Tasks are not necessarily listed in chronological order.

1. PLANNING

1.1 Project Startup

Upon receipt of a Notice to Proceed, the Consultant will prepare a work plan outlining a project management plan, milestones, and project schedule. Project startup will involve a client kickoff meeting to establish timelines, critical milestones, and review responsibilities. Publicly available data will be collected and reviewed.

1.2 Agency Coordination

A Local Officials Meeting (LOM) will be held with regulatory agency representatives including, but not limited to, North Carolina Department of Environmental Quality (DEQ), NCDOT Division 13

representative, and the Town of Black Mountain to verify necessary process and permits that will be required for construction.

The Consultant will attend one (1) Small Group meeting, to be held in Black Mountain with Town of Black Mountain Staff, and NCDOT Divisional Staff.

Specific Activities include the following:

- Review existing information and submittals
- Review conditions of the funding source, and LAPP
- Discuss project phasing and financing
- Establish a schedule for submittals
- A summary of the meeting will be developed.

1.3 Client Coordination Meetings and Administration

This task order assumes that the above tasks will be completed within an eighteen (18) month timeframe after receipt of the Notice to Proceed (NTP). With respect to this timeframe, the Consultant assumes the following:

- Project Progress Meetings
    - The Project Manager will meet with the Town project staff every other month for the 18-month project schedule (for a maximum of 9 meetings) to discuss project progress and to make project decisions. These meetings will last a maximum of 1.5 hours each
    - For each Project Progress Meeting, Michael Baker will produce an agenda,3 lead the meeting, take meeting notes, and produce and distribute meeting summaries electronically to Town Project Manager and other attendees, as needed. 3 hours for meeting prep, summaries, and distributions of each meeting is assumed.
- Telephone and e-mail coordination with the Client's project manager, and
- Monthly progress reports will be provided digitally to the Client.

Assumptions:

- Progress report and invoice formats will reflect those provided in Task Order 1.
- Coordination meetings will include the development of one meeting summary per meeting that will encapsulate the meeting into bullet points and record designated responsibilities for parties at the meeting.
- The Consultant's Project Manager will be at the meeting with no other Consultant personnel proposed.
- In addition to Project Progress Meetings, telephone and e-mail time are assumed to be cumulative 0.5 days per month.

Michael Baker will maintain project media files for the duration of the project schedule, making copies available to the Town if requested.

1.4 Data Collection and Requests

- Complete Streets – The Consultant will submit documentation to NCDOT for a Complete Streets review. The Consultant will prepare a Complete Streets Project Sheet and review request and submit the documents to the Intermodal Division for a Complete Streets Review Assessment. The Consultant will incorporate IMD responses into the CE.
- The CONSULTANT will develop Tribal coordination letters (one draft for NCDOT comments, and one final version for distribution) in compliance with NCDOT Tribal Coordination Protocol/Procedures located at: https://connect.ncdot.gov/resources/Environmental/EAU/CR/Archaeology/Documents/NCDOT%20Tribal%20Coordination%20Protocol.pdf
- Baker will order, review and summarize a Basic Environmental Data Report from www.EDRnet.com to determine whether the project involves properties with a history of hazardous materials or landfills.

1.5 Section 106 Coordination –

The Consultant will coordinate with NCDOT, FHWA, North Carolina Historic Preservation Office (NC-HPO), Advisory Council on Historic Preservation (ACHP), and the officials with jurisdiction, if applicable, to avoid, minimize, or address any Section 106 impacts identified during project development. A review of the NC-HPO HPOWEB GIS mapping website (gis.ncdcr.gov/hpoweb/) indicates the proposed alignment will travel through the Black Mountain Downtown Historic District. This District is listed in the National Register of Historic Places so Section 106 coordination will be required to identify avoidance, minimization, or mitigation measures.

The Consultant will complete research, compile, and submit an NC-HPO Project Review Checklist with associated mapping to the Project Manager for review. One (1) field visit is anticipated to confirm the presence of structures over 50 years old. Baker will conduct a field visit to identify and photograph all buildings that are 50 or more years old and located immediately adjacent to the project alignment between Sutton Avenue and Terry Estates Drive.

The Consultant will complete an Environmental Review Request as detailed on the SHPO website at: https://www.ncdcr.gov/about/history/division-historical-resources/state-historic-preservation-office/environmental-10

As detailed on the NC SHPO website, the Environmental Review Request will describe all historic properties (buildings, structures, districts, archaeological sites, or designed landscape features that are listed in, or eligible for listing in, the National Register of Historic Places, or that are 50 or more years old) and located adjacent to the Section A segment project alignment.

Pending findings and direction from the Town and NCDOT, Baker will coordinate with the State Historic Preservation Office regarding the Section 106 process requirements. Following receipt of the NC HPO Environmental Review, the Consultant will coordinate with NC HPO to resolve adverse effects through a consultation, an effects meeting or in collaboration with the Client, a Memorandum of Understanding.

1.6 Section 4(f) Documentation

FHWA funded projects which potentially impact historic resources are required to be reviewed under Section 4(f) of the US Department of Transportation Act of 1966. Because the proposed project could impact the Black Mountain Downtown Historic District (BMHD) which is Listed on the National Register of Historic Places, Section 4(f) applies to the project. Section 4(f) requires a determination that no feasible or prudent alternative that avoids Section 4(f) properties or, FHWA makes a finding that the project has a *de minimis* impact on the Section 4(f) property.

The Consultant will conduct Section 4(f) coordination with the Town of Black Mountain and FHWA and present the coordination correspondence in an appendix to the Categorical Exclusion.

1.7 Categorical Exclusion Document Update

A signed Categorical Exclusion (CE) was provided under Task Order 1. This document will be revised (or appended) to reflect the inclusion of project Section A as described under the project description. The Consultant will review the signed CE and supporting materials. Based on coordination with NCDOT and FHWA the consultant will revise or amend the CE using the most recent available CE template on the NCDOT Connect website. The Consultant will submit one (1) electronic version of the CE and attachments to the Client and NCDOT for review followed by the completion of one (1) final version for signature.

The severity of impacts (if any) to the human and natural environmental are not known at this point, however, impacts to the Black Mountain Downtown Historic District are possible. Therefore Section 4(f) documentation is required and appropriately, a Type I(B) CE will be prepared. Work to be performed under this task includes:

- Preparation of a Type I(B) CE using templates and guidance provided by NCDOT at the following location: https://connect.ncdot.gov/resources/Environmental/EPU/NEPA/Pages/default.aspx
- The CE will include a project description, location and vicinity maps; purpose and need; project design, and additional discussion/documentation of impacts if identified. The document will also summarize the public involvement effort for the project and include copies of agency correspondence.
- Draft CE – Electronic versions of the draft CE will be submitted for simultaneous review and comment to the Town of Black Mountain and NCDOT Division 13. It is assumed that one round of review and comments will occur and that reviews will take approximately two weeks.
- Final CE – After the receipt of comments, the Consultant will revise the CE and submit a copy to NCDOT and if required, FHWA for signature.

2. Public Involvement

2.1 Newsletters

The Consultant will prepare one newsletter (1) for the project's public outreach and to advise of a

public meeting. The Consultant will develop a project mailing list based on NCDOT guidance. The mailing list and newsletter will be submitted electronically to the Client for one round of review. After which, the Consultant will finalize the document and re-submit it in electronic format. The Consultant will print up to 200 8.5" x 11" double-sided, color copies of each newsletter and will mail them to study area residents and stakeholders identified by the Client. The Consultant will be responsible for mailing the newsletters and will provide a summary of any comments received on the newsletter.

2.2 Public Meeting

The Consultant will attend at least one (1) open house format meeting with the public. The purpose of the meeting will be to solicit input regarding design drawings (created to at least 30% completion). This open house meeting will be arranged (i.e., venue established, meeting advertised, etc.) by the Client. It is assumed that the Client will advertise the public meeting. The Consultant will not make a formal presentation.

The Consultant will prepare a meeting agenda and a summary of the meeting, prepare design mock-ups for a maximum of three (3) display boards, one handout and one comment form for the public meeting. Final versions of these materials will be provided for the public meeting. The Consultant will prepare a summary of the comments made during the public meeting. The Consultant will submit draft and final versions of meeting materials to the Client for one round of review.

As an alternative to a traditional open house, in consideration of the COVID pandemic, the Consultant will prepare a virtual open house that can be accessed online. This virtual open house will include the creation of a room set up which is similar to a standard public meeting room with interactive stations for information display and downloading.

The Consultant will provide the following deliverables:

- Project Mailing List;
- Project newsletter (200 copies);
- Three planners to participate in the meeting;
- 3 Directional Signs;
- Meeting Packets (200 copies);
- Attendance Records;
- Comment Sheets (200 copies);
- Title VI Nondiscrimination Forms (200 copies).

2.3 Local Officials Meeting

One (1) Local Officials Meeting will be held to present project alternative(s). The meeting will be in an open house format and use materials prepared for the public meeting on the same day and at the same location as the public meeting. The Consultant will prepare a summary of each meeting including a matrix of categorized comments. This meeting may take place at the venue for the public meeting earlier in the day to reduce costs. The meeting will introduce the local

officials to the project and elicit comments they may have on the project design, location of improvements and potential for impact. A summary of the meeting will be prepared for the Client review and a final copy of the meeting summary will be included in the environmental document.

As an alternative to traditional local officials' meeting in consideration of the COVID pandemic, the Consultant will prepare a virtual local official meeting, that can be accessed online. As stated previously, the room set up will be similar to a standard public meeting room with interactive stations for information display and downloading.

2.4 Landowner Outreach (PDEA-HES-Public Involvement)

During preliminary design efforts, the Consultant will support the Town providing exhibits, and attending up to two (2) individual landowner meetings.

The Consultant will coordinate with the Right of way Specialist to review documentation, offer guidance, and to convey landowner considerations prior to right of way negotiations. See Task 4.

3. Bike and Pedestrian Design

The 'A' section will be designed to provide connectivity between the Town of Black Mountain Public Works/Recreation and Parks building and the intersection of Hwy 09 and Sutton Avenue. Through this contract the plans will be generated for levels of required NCDOT review including 30%, 60%, and 90% submittals, followed by final (signed and sealed) plan submittals. Refinements will be made for each subsequent submittal related to factors including, but not exclusive of, alignments, right of ways, and utilities.

All designs will be in accordance with the current NCDOT, AASHTO, and MUTCD guidelines and standards, as well as applicable accessibility standards such as American Disability Act (ADA) and/or Public Right-of-Way Accessibility Guideline (PROWAG).

<u>30% Submittal</u>

A 30% submittal will be made which will include a conceptual layout of the proposed improvements. The Consultant will submit PDFs of the submittal package and one (1) half size hard copy set of the plans.

- 30% design plans will include:
    - Plan sheet sets reflecting the delineated area limits of work

<u>60% Submittal</u>

Submittal will reflect refinement of the 30% design based on reviewer responses. The Consultant will submit PDFs of the submittal package and one (1) half size hard copy set of the plans.

- Refinement of 30% plans including*:*
    - A Preliminary Construction Phasing Concept in a Narrative format
    - Cost Estimate

  - Representative details related to construction such as: paving sections, fencing, signage, vehicle exclusion devices, etc.

- Graphics- visual simulations and renderings of the project will be generated to be utilized in public meetings, and generally to promote project outreach. Graphics will include:
  - one (1) site specific photo mockup reflecting proposed conditions,
  - one (1) master plan graphic (reflecting Sections 'A' & 'B'),
  - three (3) graphic cross sections of applied typologies.

90% Submittal

The Consultant will submit PDFs of the submittal package and one (1) half size hard copy set of the plans.

- 90% submittal package will include the following:
  - All items listed for previous submittals
  - Summary of Pavement Removal
  - Special Detail Request
  - Written Documentation Outlining the Comments Made and a Detailed Explanation on How Comments were Addressed.
  - Draft specification package
  - Cost Estimate
  - Revised signage locations

100% Final Plans (signed and sealed)

Final Plan Production will consist of addressing any comments provided from the 90% review, and packaging of the plans as a final sealed set. The Consultant will submit PDFs of the submittal package, one full size hard copy set of the plans, and will provide electronic files needed to review and reproduce a hard copy set of plans and the associated engineer's estimate. The Consultant will prepare Final Sealed Plans addressing the comments from Plan Checking and provide them to the Town within 6 calendar days from receiving the comments from Plan Checking. The Consultant will also provide a written response to each comment from Plan Checking describing how the plans were revised. If the sealed, signed and dated PDFs cannot be submitted before returning them to Plan Checking, the Consultant will coordinate delivery with the Town and NCDOT.

- The Consultant shall prepare 100% Plans to include the following:
  - All items listed for previous submittals
  - Quantity Calculations and Estimate
  - List of General Notes, List of Standard Details and Index of Sheets – These will be submitted as 8.5" by 11" Word™ or Excel™ documents and will be transferred to the 1-A Sheet only after review by Contracts and Proposals with any necessary revisions incorporated.
  - List of Special Provisions
  - Written Documentation Outlining the Comments Made and a Detailed Explanation on How Comments were Addressed.
  - Plan reflecting limits of disturbance

- Cost Estimate
- Final signage locations

4. Right of Way

It is assumed that the project will be located within Town right of way. If parcels or appraisals are needed, they will be invoiced at the per parcel prices.

The Consultant's right of way Sub-Consultant will provide an estimate of value for each parcel at the direction of the Town. It is our recommendation that all settlements be attempted with a Right of Way Claim Report if the estimated Value is under $10,000. Should settlement not be reached using a Right of Way Claim Report the Town would then obtain an appraisal.

Appraisal Formats

- Sub-Consultant, using current market data, will provide a spreadsheet showing approximate per square foot values for each parcel on the project. This approach would be the equivalent of an NCDOT Right of Way Claim Report.
- Sub-Consultant will provide a Right of Way Transmittal Summary on any parcel as directed by the Town.
- Sub-Consultant will provide a Full Narrative Appraisal on any parcels as directed by the Town.
- Using the approved appraised value Sub-Consultant will negotiate and secure a signed easement agreement on all parcels and hand deliver the original to the Town.
- A minimum of 3 attempts to settle with each property owners will be made.
- In the event a property owner refuses to settle, or negotiations reach an impasse, Sub-Consultant will deliver to the Town a written recommendation to acquire the property through condemnation along with a detailed negotiation diary and all other information regarding the attempted settlement.
- Sub-Consultant will be available to the Town for any questions, meetings, or public involvement throughout the life of this project.
- Sub-Consultant will perform all work in accordance with LAPP regulations and 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs.

5. Traffic Engineering Plans

The Consultant will develop traffic engineering plans consisting of:

- Maintenance of Traffic (MOT) Plan
  - The Consultant will provide a traffic control plan to address how traffic and pedestrians will be accommodated during construction.
- Proposed Signing and Pavement Marking Plans
  - Traffic engineering plans will only address pedestrian and bicycle signing and pavement marking of the 'A' Section.
- Signal Upgrade and Modification Plans

- A full signal design will be completed for the upgrade of the existing signal at the intersection of NC 9 at Sutton Ave/Norfolk Southern Railroad Crossing (Sig ID 130509). This design will include new signal poles, signal heads and detection. The existing cabinet will remain. Pedestrian signals will be added for each crosswalk proposed, and the existing railroad pre-emption will be maintained.
- A signal modification is proposed for the intersection of NC 9 at Vance Ave (Sig ID 130303) to provide ADA compliant pedestrian pushbutton stations in the NE corner of the intersection.
- Existing signal communications will also be maintained for the signals within the project limits.

All Traffic Engineering plans will be developed using NCDOT accepted methods, guidelines, and standards. As per the NCDOT Guidelines for the Preparation of Traffic Signal Plans, Signal Plans will include Metal Pole Design, Pedestrian Signal Design, Preemption Design, Electrical Details, Configuration Files, Summary of Quantities and Project Special Provisions.

The Traffic Engineering Plans will be submitted as follows:

- Three (3) PDF review submittals; at 30%, 60% and 90% completion
- One (1) final sealed PDF plan submittal

Exclusions:

- Traffic counts, Pedestrian counts (assumed available from NCDOT), Pedestrian surveys, Traffic analysis, Signal Phasing Recommendations/Modifications
- User costs analysis

6. Utility Coordination

The Utility Coordinator will assist the Utility Owners in identifying conflicts and developing relocation plans that meet NCDOT requirements. Due to the nature of the work, utility conflicts involved with improvements associated with Section A will be minimal. However, as utility coordination will primarily be with the same providers as the adjacent EB 5547-B project, some time is allocated to streamline utility coordination, reducing the likelihood of conflicts.

The Utility Coordinator will coordinate proactively with the project designers (Roadway, Hydraulics, Traffic, etc.) to avoid or reduce utility conflicts. The following tasks are included:

Kick-Off Meeting

- Schedule and conduct a follow-up meeting with Utility Owners.
  - Discuss utility conflicts, PUE needs, relocation time frames, cost responsibilities, and relocation packages.

    - Provide minutes of the meeting.
- Provide electronic files (.dsn and .pdf) and paper copies of the highway project plans to the utility companies.
- Identify SUE needs to the Project Manager.
- Coordinate possible conflict resolution with the Design Team.
- Utility relocations should be designed and performed by the Utility Owner's staff or by Utility Owner contracts.
- Determine preliminary utility alignments and relocation schedules.
    - Utility relocations should be scheduled to occur prior to the SUP project advertisement if possible.
- Estimate cost if requested by the Town of Black Mountain.
- Review Utility Owners' relocation plans for conflict resolution and constructability.

PUE's

- Provide PUE needs to the Design Team.
- After review and concurrence with the Utility Owners, send the preliminary utility relocation plans to all utility owners and the Team for review and comments.

UbO's and UEPD

- Prepare Utilities by Others plans and Special Provisions to the Team and the Town of Black Mountain.
- Determine utility environmental permit needs in collaboration with Utility Owner representatives and the Team. Verify environmental permits can be obtained to meet utility relocation schedules.
    - Provide environmental permit needs using Utilities by Others plans along with an environmental narrative to the Design Team.

Utility Authorizations

- Assist Utility Owners in the development of their Utility Relocation Packages.
- Receive and review Utility Relocation Package.
- Determine reimbursement eligibility for utilities with conflicts, obtain written property right documentation.

DELIVERABLES

- All submittals and deliverables shall follow the guidance and be in the format currently issued by NCDOT at the time of the submittal.
- Make all submittals to The Town of Black Mountain electronically.
- Provide all deliverables in searchable .pdf format.
- Additionally, provide Special Provisions and reports in .docx format.

7. Survey

Survey (Location Surveys):

Survey will be provided as described below for approximately 450 LF of Hwy 09 (Sutton Avenue to Vance Avenue) and 450 LF of Vance Avenue (Hwy 09 to Black Mountain Avenue). All survey services for this project shall be performed in accordance with, and shall conform to, accepted Surveying and Engineering general practices and procedures with the detailed scope of work as set forth and described below.

1. Property Research/Document Retrieval

The Surveyor shall obtain current deeds, maps, plats, and easement documents of record according to the current information of the online Tax Records in the GIS database, for all parcels adjacent to the project and for which right of way acquisition are anticipated to be required. Investigations will be made of private developments along the corridor, through the Town Planning Department, to properly represent existing, dedicated easements in the project plans.

The Engineer shall request record plans, and other right of way information from the Town of Black Mountain to assist in the establishment of existing right of way for the roads within the project limits. Surveyor will utilize record plans and other right of way information to perform research, analysis, and calculations necessary to survey the rights of way of NC Hwy. 09, Vance Avenue, and Black Mountain Avenue. The Surveyor will provide all property information compiled during this task in format appropriate for submittal to the Town.

A complete title opinion is not included in this scope of services. Property owners are to be notified by the Town and obtain a Right of Entry to all properties before commencement of surveys. Notification of property owners will be performed by the Town.

2. Establish Horizontal and Vertical Control Network

The Surveyor shall provide a horizontal and vertical traverse throughout the entire Project. Horizontal Control shall be referenced to North Carolina Geodetic Survey datum, NAD83 2011 adjustment. Vertical Control shall be based upon United States Geodetic Survey NAVD88 datum. Control shall consist of a “random baseline traverse” monumented by 60D nails with plastic washer set flush with the ground, or MAG pavement nails where appropriate. Each control point shall have x, y, and z coordinate values.

Digital Terrain Model

Surveyor will collect topographic and DTM data by conventional field surveys for use in determining earthwork and property impacts. Width of collection will be approximately 50 feet in width centered on the proposed alignment provided by the Landscape Architect in areas away from the NCDOT right of way. All final DTM and survey control shall be provided to the Engineer in Autocad format. Publicly available topographic data (LIDAR) beyond the surveyed corridor will be clipped the boundaries and integrated into a seamless surface to extend an additional 100 feet +/- beyond the survey corridor on all sides. Note that LIDAR will be incorporated in the surface but will not be certified to its accuracy.

3. Planimetric Mapping

Surveyor will field locate and map planimetric information throughout the project limits as described above. Said information shall include, but is not limited to the following:

1) Wetlands as delineated by others within the survey corridor and prior to commencement of survey. Additional fee will apply if wetlands are to be surveyed after field survey is completed
2) Rock outcroppings
3) Drives - location, type, and width
4) Buildings - location, type, size, and front corners if within 50 feet of survey corridor.
5) Parking Lots - location and layout
6) Landscape areas, woods lines, and all trees in landscaped areas greater than 6" dia, large and ornamental trees 2" and above. Surveyed trees as described, exceptionally large trees, and ornamental trees of apparent high value shall be located by species and size.
7) Signs - location, type, and size
8) Fences - location, type, and size
9) Utilities*
    a. Storm drainage - location, size, type, top and invert elevations, inlet and outlet location both inside, and one structure outside planimetric limits.
    b. Gravity sanitary sewer - location, size, type, top and invert elevations.
    c. Water - valves (including top of nut elevations where accessible), meters, hydrants, wells, and associated appurtenances.
    d. Gas - valves, meters, vents and associated appurtenances.
    e. Telephone – above ground appurtenances such as poles, pedestals, manholes and vaults (to include subsurface footprint where determinable).
    f. Overhead utilities - location, poles, guys, markers, pedestals, pole number, equipment, and type to include power, telephone, cable TV, traffic signal and other telecommunications and communication lines.
    g. Fiber optics-above ground appurtenances such as poles, pedestals, manholes and vaults (to include subsurface footprint where determinable).

* Gravity utility (drainage and sanitary sewer) location will be based on above ground appurtenances and visual inspection and depth measurements to determine invert elevations that may be accomplished from the surface. The Surveyor will not enter the manhole to determine inverts. Confined space investigation shall be considered Additional Services (Article II). Non-gravity utilities to be surveyed and mapped are those limited to utilities (and their appurtenances) that are visibly apparent and/or marked by NC 811 utility members initiated by a design locate ticket.

4. Boundary Ties and Existing Boundary Mapping

Surveyor will survey existing property boundaries and apparent public rights of way within the survey corridor and as available from the Buncombe County GIS. Additional visibly apparent easements will be surveyed as discovered by surveyor or referenced in the subject deed for the individual properties within the survey corridor. NCDOT record plans will be used to

establish right of way for the NCDOT roads within the project and Town of Black Mountain roadway plans or existing plats will be used to establish right of way on Town owned or maintained roads. A complete title opinion or obtaining a Right of Way Abstract from NCDOT or the Town is not included in this scope of services.
Recon and locate a sufficient number of property corners on 8± properties to show the affected property boundary limits in accordance with the recorded deeds and plats.
Complete boundary surveys required on any parcel shall be considered Additional Services anticipated for Future Phases of work

5. Easement Platting

- Obtain final greenway alignment and easement alignments from Michael Baker
- Update legal references for the property ownership to current owners, if any changes since initial route survey
- Field crew to obtain additional property line ties as necessary
- Prepare up to four (4) separate plats across four (4) properties, mapped on 18" x 24" or 24" x 36" size sheets
- Send preliminary plats to OWNER'S Consultant for review
- Address comments
- Send final plats to Michael Baker for final review
- Upon approval of final plat, record in the Buncombe County Register of Deeds Office
- Deliver digital files in pdf of recorded plats

Easement Plat to be developed on a per each cost of $800 upon written approval by the Client.

Easement stake or monumentation to be completed on a per each parcel unit cost of $600 upon written approval by the Client.

[Note: Any re-establishment and/or staking of more than three points of the initial control traverses and alignments lost due to project delays, periods of inactivity, vandalism or construction associated with this project, so long as these causes are outside the control of the Surveyor, shall be considered additional services and compensated in accordance with hourly rates.]

See list below of current policies and limits:
Auto $1,00,000 combined single limit each accident
Professional Liability $1,000,000 each claim / $1,000,000 aggregate
General Liability $2,000,000 per occurrence / $2,000,000 aggregate
Worker's Comp $1,000,000 each accident

8. Exclusions

The Consultant can provide the following exclusions as needed through approved additional task orders with an associated fee adjustment:

- Structural design: Structural design is not anticipated for project area.

- Trailhead specific design: No trailheads are anticipated in the project area.
- Geotechnical Exploration: No geotechnical exploration is anticipated for the project area. If deemed necessary, paving design and possible underlayment/subsurface recommendations, particularly along the SUP section of Vance, may apply. If deemed necessary, the client will be notified, and geotechnical services will be coordinated with the Town of Black Mountain.
- Electrical/lighting design
- Roadway services: It is understood that the corridor will be located within Town right of way, and that no temporary roadways, or related services will be required
- Bid Package Preparation and Support
- Water and Sewer (wet utility) design
- Any work resulting in significant deviations (beyond the surveyed boundary) due to conditions such as, but not limited to, landowner consent, utility conflicts, floodplain encroachments, client direction, etc.
- Stream Restoration and Stabilization services
- Wayfinding Signage plans
- Construction Management, construction oversight, shop drawings, construction engineering and/or inspections
- SUE level 'A'
- Lane closures, or other special traffic control associated with any SUE work.
- Railroad survey and coordination
- NS right of entry

Client Responsibilities:

- Coordinate, contact and provide general project oversight,
- Establish and maintain a project record,
- Gain rights of entry, or at minimum notify landowners, to access properties for field work,
- Designate one staff person as the Town's Project Manager/Administrator,
- Review Consultant deliverables in a timely manner,
- Submit deliverables via NCDOT process in a timely manner,
- Provide consolidated written review comments,
- Clarify direction in the case on any conflicting comments from different Town reviewers,
- Provide project related Town data, reports and correspondence, if available,
- Write Grant Applications and Apply for Grants,
- Negotiate agreements for easement or encroachments
- Distribution of material and advertisements of public meetings,
- Meet with affected property owners along the alignment.

EXHIBIT 2 A– COMPENSATION AND PAYMENT

Town of Black Mountain, NC / Michael Baker Engineering, Inc.

BAKER will perform the services as described in Exhibit 1 (Scope of Work) in exchange for the following fee:

CLIENT will pay a lump sum of $289,811.69 (two hundred eighty-nine thousand, eight hundred eleven dollars and sixty-nine cents).

BAKER will submit monthly invoices to CLIENT on a percent complete basis. Invoices shall be remitted to:

EFT/ACH:

Michael Baker International
Citizens Bank
Account No.: 6101710975
ABA: 036-076-150
SWIFT: CTZIUS33
Payment Inquiries: AR@mbakerintl.com

Check:

Michael Baker International
P.O. Box 536408
Pittsburgh, PA 15253-5906

Exhibit 3

Agreement

Michael Baker
INTERNATIONAL

Client Agreement

THIS AGREEMENT entered into this 14th day of January 2019, by and between [Michael Baker Engineering, Inc. (hereinafter "**MICHAEL BAKER**") with offices at 797 Haywood Road, Suite 201 Asheville, NC 28806 and Town of Black Mountain, NC (hereinafter, "**CLIENT**").

WHEREAS, the **CLIENT** is in the business of Municipal Government, and desires **MICHAEL BAKER** to perform certain technical services.

WHEREAS, MICHAEL BAKER is in the business of providing engineering and technical services and desires to perform such services for **CLIENT**.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, and intending to be legally bound hereby, the parties agree as follows:

1. **SCOPE OF WORK.** **MICHAEL BAKER** shall perform such engineering and technical services as are described in the attached Exhibit "A", including any additions or modifications mutually agreed upon and incorporated therein (hereinafter, "Work").

2. **STANDARD OF CARE.** The standard of care applicable to **MICHAEL BAKER's** services is the degree of skill and diligence normally employed by engineers or providers of technical services performing the same or similar services.

3. **COMPENSATION AND PAYMENT.** **CLIENT** shall compensate **MICHAEL BAKER** for the Work in such manner as described in the attached Exhibit B, including any additions or modifications mutually agreed upon and incorporated therein (hereinafter, the "Payment Terms"). Partial payments for the Work shall be made monthly by the **CLIENT** to **MICHAEL BAKER** based on invoices submitted by **MICHAEL BAKER**. The **CLIENT** shall also pay **MICHAEL BAKER** a late payment charge for any payments for any outstanding balance not made within thirty (30) days of the date of applicable invoices at the rate of one and one-half percent (1½ %) per month. Regarding Subconsultants of **MICHAEL BAKER**, after receipt and approval by **MICHAEL BAKER** of **SUBCONSULTANT's** invoice prepared in such form and supported by such documents as **MICHAEL BAKER** may reasonably require, **MICHAEL BAKER** will include **SUBCONSULTANT's** invoice with **MICHAEL BAKER's** regular billings to the **CLIENT**. **MICHAEL BAKER** will make payment to the **SUBCONSULTANT** within ten (10) days after receipt of payment from the **CLIENT** for work performed by **SUBCONSULTANT**.

4. **ESTIMATES.** Any estimates provided for cost of construction, financing, and acquisition of land and right-of-ways shall be made in accordance with good engineering practice and procedure. It is understood, however, that **MICHAEL BAKER** has no control over construction costs, competitive bidding and market conditions, nor over costs of financing, acquisition of land or right-of-ways, and **MICHAEL BAKER** does not guarantee the accuracy of such cost estimates as compared to actual cost or contractors' bids.

5. **CONSTRUCTION MEANS AND METHODS.** **MICHAEL BAKER** shall not be responsible for construction means, methods, techniques, sequences or procedures of construction contractors, or the safety precautions and programs incident thereto, and shall not be responsible for such contractors' failure to perform work in accordance with the contract documents.

6. **COMPLIANCE WITH LAWS.** **MICHAEL BAKER** shall comply with all applicable provisions of the unemployment compensation, sickness and disability, Social Security laws, the Fair Standards Act and all other Federal, State, and local laws or regulations relating to employment.

7. **ASSIGNMENT BY CLIENT.** All the terms, provisions, covenants and conditions of this Agreement (including any modifications thereto) shall be binding upon, inure to the benefit of, and be enforceable by **CLIENT**, its successors and assigns; provided however, that no portion of this Agreement (including any Task Order) and the rights and obligations thereunder shall be assignable or delegable by **CLIENT**, by operation of law or otherwise, without the express prior written consent of **MICHAEL BAKER** which consent shall not be unreasonably withheld.

8. **ASSIGNMENT BY MICHAEL BAKER.** All the terms, provisions, covenants and conditions of this Agreement (including any modifications thereto) shall be binding upon, inure to the benefit of, and be enforceable by **MICHAEL BAKER**, its successors and assigns; provided however, that no portion of this Agreement (including any Task Order) and the rights and obligations thereunder shall be assignable or delegable by **MICHAEL BAKER**, by operation of law or otherwise, without the express prior written consent of **CLIENT** which consent shall not be unreasonably withheld.

9. **INSPECTION OF THE WORK.** **MICHAEL BAKER** shall grant **CLIENT** access at all reasonable times to **MICHAEL BAKER's** facilities where the work under this Agreement is being performed.

10. **CHANGES.** The **CLIENT** may, at any time prior to the completion of the Work, direct, in writing, any changes to the Work, including but not limited to the revision of the Work's scope, time period, or schedule of performance. **MICHAEL BAKER** shall perform such changes to the Work as directed by the **CLIENT** in writing and shall be paid for such Work at rates established by the Agreement, at actual costs, times a multiplier no greater than **2.65** to cover overhead and profit, unless agreed between the **CLIENT** and **MICHAEL BAKER**.

11. **SUSPENSION OR TERMINATION.** In the event that the Work is terminated or suspended by the **CLIENT** prior to its completion, **MICHAEL BAKER** shall be paid an equitable amount proportional to the services rendered to the date of termination or suspension, with any calculation of the value of such services to be based on the time values and unit costs set out in the RIVERWALK-NCDOT Scope and Manday Estimate Form, plus any documented termination costs. CLIENT shall have the right at any time to terminate this Agreement in whole, or in part, by written notice to MICHAEL BAKER. Upon receipt of written notice MICHAEL BAKER shall discontinue performance as immediate as possible, will not place any further orders and will promptly cancel all orders to subcontractors.

12. **DEFAULT OR CAUSE.** Should either party breach any provisions of this Agreement the non-breaching party shall have the rights and remedies provided by law or under these terms and conditions. The non-breaching Party shall have the right at any time to terminate this Agreement

in whole, or in part, if the breaching Party fails to perform any of its obligations or if the breaching Party fails to give non-breaching Party assurance of adequate performance within ten (10) working days after written request by the non-breaching Party for such assurances. In the event of a breach of the Agreement either Party may:

-Declare the breaching Party to be in default;
-Terminate this Agreement in whole or in part, in accordance with Article 12;
-Withhold payment of any further funds which may be due until the default is corrected;
-Pursue any and all other remedies afforded by law.

13. **INDEMNIFICATION.** Except as stated below, **MICHAEL BAKER** shall indemnify and save harmless the **CLIENT** from these claims, losses, lawsuits or expenses caused directly by **MICHAEL BAKER's** sole negligent acts, errors or omissions with performance of **MICHAEL BAKER's** services hereunder. To the fullest extent permitted by law, with respect to claims, damages, losses and expenses which are related to hazardous waste or asbestos removal, disposal or cleanup or environmental liability, the **CLIENT** shall indemnify, save harmless and defend **MICHAEL BAKER** from and against all such claims, damages, losses or expenses, including attorney's fees, arising out of or resulting from the performance of **MICHAEL BAKER's** services, or claims against **MICHAEL BAKER** arising from work of others.

14. **LIMITATION OF LIABILITY.** To the fullest extent permitted by law, the **CLIENT** agrees to limit **MICHAEL BAKER's** liability to the **CLIENT** and to all other contractors or subcontractors on the project for any and all injuries, claims, losses, expenses or damages whatsoever arising out of or in any way related to the project or this Agreement from any cause or causes including but not limited to **MICHAEL BAKER's** negligent acts, errors, omissions, strict liability, breach of contract, or breach of warranty, such that the total aggregate of liability of **MICHAEL BAKER** to all those named shall not exceed two times the total fee for **MICHAEL BAKER's** services rendered in the project.

15. **WAIVER OF CONSEQUENTIAL DAMAGES.** In no event shall either **MICHAEL BAKER** or the **CLIENT** have any claim or right against the other, whether in contract, warranty, tort (including negligence), strict liability or otherwise, for any special, indirect, incidental, or consequential damages or any kind or nature whatsoever, such as but not limited to loss of revenue, loss of profits on revenue, loss of customers or contracts, loss of use of equipment or loss of data, work interruption, increased cost of work or cost of any financing, howsoever caused, even if same were reasonably foreseeable.

16. **INSURANCE.** Unless otherwise required in this Agreement, the **CLIENT** and **MICHAEL BAKER** shall, during the performance of the services as provided herein, maintain insurance of the types and amounts specified, and with insurers satisfactory to the other party as follows:

Worker's Compensation	Statutorily required amounts
Employer's Liability	$1,000,000 Bodily Injury by Accident (Each occurrence)

	$1,000,000 Bodily Injury by Disease (Policy Limit) $1,000,000 Bodily Injury by Disease (Each Person)
Comprehensive General Liability	$1,000,000 Each Occurrence for bodily injury and property damage $1,000,000 Products/ Completed Operations Aggregate $1,000,000 General Aggregate over all interests
Comprehensive Automotive Liability	$1,000,000 Bodily Injury $1,000,000 Property Damage (including coverage for owned, non-owned and hired vehicles)
Professional Liability	$2,000,000 (Each claim)

17. **INDEPENDENT CONTRACTOR.** **MICHAEL BAKER** acknowledges that it is furnishing the services contemplated by this Agreement hereto as an independent contractor, and not as an employee or agent of **CLIENT** or any of its affiliates.

18. **PUBLIC ANNOUNCEMENTS. N/A**

19. **PARTIAL INVALIDITY.** If any term, covenant, condition or provision of this Agreement is found by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect, and shall in no way be affected, impaired or invalidated thereby.

20. **HEADINGS.** Headings in this Agreement are for convenience only, and are not intended to be used in interpreting or construing the terms, covenants, and conditions of this Agreement.

21. **GOVERNING LAWS.** The validity or construction of this Agreement, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of North Carolina without regard to its choice of law provisions.

22. **SUPPLEMENTS TO AGREEMENT.** The following Exhibits are an integral part of this Agreement.

Exhibit "A" Scope of Work
Exhibit "B" Compensation and Payment
Exhibit "C" NC Transporation – Contract Provisions – Flowdown Clauses

23. **ENTIRE AGREEMENT.** This Agreement constitutes the whole agreement between the parties with respect to the subject matter contained herein, and there are no terms other than those

contained herein. No modification or amendment of this Agreement shall be valid unless in writing and signed by the parties hereto. As pertaining to Exhibit C, MICHAEL BAKER shall comply with all incorporated flowdown clauses, applicable to MICHAEL BAKER and the services procured under this Agreement, included in this Exhibit.

24. **FORCE MAJEURE.** In no event shall either **MICHAEL BAKER** or the **CLIENT h**ave any claim or right against the other for any failure of performance where such failure of performance is caused by or is the result of causes beyond the reasonable control of the other party due to any occurrence commonly known as a "force majeure," including, but not limited to: acts of God; fire, flood, or other natural catastrophe; acts of any governmental body; labor dispute or shortage; national emergency; insurrection; riot; or war.

25. **REUSE OF WORK PRODUCT.** Any reuse of **MICHAEL BAKER**'s work product without written verification or adaptation by **MICHAEL BAKER** will be at the **CLIENT**'s own risk and without liability or legal exposure to **MICHAEL BAKER**. The **CLIENT** shall indemnify and hold harmless **MICHAEL BAKER** from all claims, damages, losses and expenses, including reasonable attorney's fees, arising out of or resulting therefrom. Any such verification or adaptation will entitle **MICHAEL BAKER** to further compensation at rates to be agreed upon by the **CLIENT** and **MICHAEL BAKER**.

26. **OBLIGATION OF GOOD FAITH, FAIR DEALINGS AND MITIGATION OF DAMAGES.** This Agreement imposes an obligation of good faith, fair dealings and the mitigation of damages among the parties in all matters relating to this Agreement. Good faith, for this purpose, includes honesty in fact and the observance of reasonable commercial standards of fair dealings and in the mitigation of damages even in situations where a decision is left to the sole discretion of a single party.

27. **INVENTIONS AND PATENTS.** Inventions conceived solely by employees of **CLIENT** shall belong exclusively to **CLIENT**. Inventions conceived solely by employees of **MICHAEL BAKER** shall belong exclusively to **MICHAEL BAKER**. Inventions conceived jointly by the parties hereto in the course of work called for by this Agreement shall be subject to further agreement of the parties so as to properly recognize each party's respective rights in such joint inventions.

28. **EXAMINATION OF RECORDS.** **MICHAEL BAKER** agrees that **CLIENT** will have access to and the right to examine any books, documents, papers and records of the transactions that are directly pertinent to this Agreement. MICHAEL BAKER shall maintain all records for a period of three (3) years after completion of the Work.

29. **ORGANIZATIONAL CONFLICT OF INTEREST.** **MICHAEL BAKER** understands and agrees that the performance under this Agreement may give rise to an organizational conflict of interest ("OCI"), either real, potential or perceived. To identify and assist in mitigating such an OCI, **MICHAEL BAKER** agrees to immediately:

(i) Notify **CLIENT** of any real, potential or perceived OCI known to **MICHAEL BAKER** that presently exists, state the precise nature of the OCI, and provide descriptive detail;

(ii) Notify **CLIENT** of any real, potential or perceived OCI that becomes reasonably foreseeable for **MICHAEL BAKER**, state the precise nature of the OCI, and provide descriptive detail; and

(iii) Following such notification, the Parties agree to negotiate a mutually agreeable mitigation plan. If necessary, **CLIENT** will make a good faith effort to obtain any necessary approvals of any such mitigation plan.

30. EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE. If applicable, MICHAEL BAKER shall comply with applicable laws, executive orders, and regulations concerning nondiscrimination in employment including but not limited to the Equal Opportunity Clause of Section 202, Executive Order 11246, as amended.

31. WORK HOURS AND HEALTH / SAFETY STANDARDS COMPLIANCE. If applicable, MICHAEL BAKER shall comply with applicable laws, executive orders, and regulations concerning work hours (40 USC 3702) and Health and safety standards in building trades and construction industry (40 USC 3704), as amended

32. BYRD ANTI-LOBBYING AMENDMENT CERTIFICATION. **MICHAEL BAKER** represents, warrants and covenants to **CLIENT**, as of the date hereof and the date that any invoice for goods or services is submitted, that neither **MICHAEL BAKER**, nor any of its equity holders, partners, officers, directors, employees, representatives, affiliates, sub-contractors, or other agents shall, directly or indirectly, offer, pay, promise to pay, or authorize the payment of any money, or offer, give, promise to give, or authorize the giving of any financial or other advantage or anything else of value to any Government Official for the purpose of (i) influencing or rewarding any act or decision of such official, employee, party or candidate, or (ii) inducing such official, employee, party or candidate to do or omit to do any act in violation of his or her lawful duty, or (iii) inducing such official, employee, party or candidate to use its or his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality, or (iv) securing any improper advantage for **MICHAEL BAKER**.

33. CLEAN AIR ACT & FEDERAL WATER POLLUTION CONTROL ACT COMPLIANCE. If applicable, MICHAEL BAKER shall comply with applicable laws, executive orders, and regulations concerning the Clean Air Act (42 USC 7401-7691q.) and Federal Water Pollution Control Act (33 USC 1251-1387, as amended.

34. ELIGLIBLE PARTY / AWARDEE. **MICHAEL BAKER** represents and warrants to **CLIEN**T, that it is eligible for Federal awards and is registered in System for Award Management (SAM.gov).

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties have caused this Agreement to be executed and delivered as of the day and year first above written.

WITNESS:

Michael Baker Engineering, Inc.

Name: Dennis Hathaway

Title: Vice President

WITNESS:

Town of Black Mountain, NC

Name: Don Collins 1-14-19

Title: Mayor

THE TOWN OF BLACK MOUNTAIN INCORPORATED MARCH 4, 1893 NORTH CAROLINA

TOWN OF BLACK MOUNTAIN

AGENDA ITEM SUMMARY

SUBMITTER: Angela Reece, *MPA, MMC, NCCMC,* *Project & Facilities Manager* **MEETING DATE:** August 14, 2023

AGENDA SECTION: CONSENT **DEPARTMENT:** ADMINISTRATION

TITLE OF ITEM: Approval of Amendment #2 - Preliminary Engineering - Client Agreement PROJECT # **EB5547-B** – *Angela L. Reece, Project & Facilities Manager*

SUGGESTED MOTION(S): *I move that Town Council approve Amendment #2 to the Client Agreement for Project EB5547-B with Michael Baker Engineering, Inc. as presented.*

SUMMARY:

NCDOT has approved the contract for the preliminary engineering for EB-5547 Section B. The work will be completed by Michael Baker Engineering. The cost of this contract is $184,232.79.

ATTACHMENTS:

i. NCDOT Approval and Concurrence Letters

ii. Amendment #1 - Preliminary Engineering - Client Agreement – Michael Baker International PROJECT # **EB5547-B**

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

ROY COOPER
GOVERNOR

J. ERIC BOYETTE
SECRETARY

August 2, 2023

Angela Reece
TOWN OF BLACK MOUNTAIN
160 MIDLAND AVE
BLACK MOUNTAIN NC 28711

TIP : EB-5547B
Document : PS_PEF TASKS AND MANDAYS W RATES
Ref : PS_PEF TASKS AND MANDAYS W RATES Approval

Dear Angela Reece,

The Department has approved your PS_PEF TASKS AND MANDAYS W RATES.

Approval Notes:

> The Department has reviewed the cost proposal from Michael Baker for section EB-5547B and concurs with the lump sum amount of $184,232.79 as reasonable and appropriate with Department policies and guidelines.

To view approval notes/letters:
1) Log into EBS Portal and select tile “Local Projects”
2) Select “Display Documents” from Main Menu
3) Search for this project by above referenced TIP Number and open
4) Find this Document Type (reference above) with a status of Approved
5) Open activity: approval letter or comments will be attached.

If additional reviews are needed on this Document type, you must submit a new workflow.

Please feel free to contact your Local Project Manager should you have any questions or concern in regards to the above information.

Sincerely,
Justin Jorgensen

JDJORGENSEN@NCDOT.GOV

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

ROY COOPER
GOVERNOR

J. ERIC BOYETTE
SECRETARY

August 2, 2023

Angela Reece
TOWN OF BLACK MOUNTAIN
160 MIDLAND AVE
BLACK MOUNTAIN NC 28711

TIP : EB-5547B
Document : PS_PEF CONTRACT – DESIGN OR ROW
Ref : PS_PEF CONTRACT – DESIGN OR ROW Approval

Dear Angela Reece,

The Department has approved your PS_PEF CONTRACT – DESIGN OR ROW.

Approval Notes:

The Department of Transportation has reviewed the Draft Consultant Contract for PEF Services submitted to us for project EB-5547B and finds that it meets NCDOT's policies and guidelines. Please note, our review has been limited to ensuring that payment terms are accurate for the scope of work and the estimate is correctly included.

The Municipality should ensure the following:

1. The costs are in-line with the Municipality's budget.
2. The Municipality concurs with the mandays and costs as provided by the consultant.
3. The scope is that which is needed/requested by the Municipality for the project.
4. Any discrepancy in time, dollars, or scope should be addressed by the Municipality with the Consultant.

In order to process reimbursement for eligible costs, we must have a copy of the fully executed consultant agreement. Reimbursement requests will not be processed until we receive this document.

To view approval notes/letters:
1) Log into EBS Portal and select tile "Local Projects"
2) Select "Display Documents" from Main Menu
3) Search for this project by above referenced TIP Number and open
4) Find this Document Type (reference above) with a status of Approved

5) Open activity: approval letter or comments will be attached.

If additional reviews are needed on this Document type, you must submit a new workflow.

Please feel free to contact your Local Project Manager should you have any questions or concern in regards to the above information.

Sincerely,
Justin Jorgensen

JDJORGENSEN@NCDOT.GOV

Michael Baker
INTERNATIONAL

Amendment No. 2 to Client Agreement
EB-5547 B

THIS AMENDMENT No. 2 ("Amendment") is made and entered into this _____ day of _____ 20___, by and between Michael Baker Engineering, Inc. (hereinafter "**MICHAEL BAKER**") with offices at 797 Haywood Road, Suite 201 Asheville, NC 28806 and Town of Black Mountain, NC, a municipal government (hereinafter, "**CLIENT**"). Michael Baker and Client may be individually referred to as a "Party" and collectively referred to as the "Parties" herein.

WHEREAS, the Parties entered into a Client Agreement dated January 14, 2019 (the "**Agreement**") (Exhibit "3"), pursuant to which Agreement Michael Baker is performing engineering and technical services for Client described in the Scope of Work set forth in Exhibit "A" to the Agreement, and which services are in connection with the project referred to as RIVERWALK GREENWAY PHASE III - NCTIP #EB-5547 (the "**Project**");

WHEREAS, subsequent to the execution of the Agreement, the CLIENT would like to modify the Scope of Work; and

WHEREAS, it is the intention of the Parties to amend certain provisions and the Scope of Work for the Agreement as set forth in this Amendment.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein and for other valuable consideration, the sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Parties agree that the Agreement is hereby amended as follows:

1. **RECITALS.** The above noted recitals are true and correct and are hereby incorporated into this Amendment by reference.

2. **SCOPE OF WORK.** The Scope of "Work" as defined in paragraph 1 of the Agreement and as set forth in Exhibit "A" to the Agreement is hereby revised and replaced with the attached Exhibit "1" hereto. It is agreed that Michael Baker shall perform such engineering and technical services as are described in the attached Exhibit "1", including any additions or modifications mutually agreed upon and incorporated therein (hereinafter, "**Work**"). As referenced in the attached Exhibit "1", the name of the Project is hereby revised to the following: "NCTIP #EB-5547 B".

3. **COMPENSATION.** It is agreed that CLIENT shall compensate MICHAEL BAKER for the revised Work described in Exhibit "1" in the amount of $184,232.79. It is further agreed that the attached Exhibit "2B" hereby revises and replaces Exhibit "B" to the Agreement. All other billing, compensation, and payment terms shall remain the same.

4. **CONFLICTS.** Except as modified by this Amendment, the terms and conditions of the Agreement shall remain unchanged and continue in full force and effect. In the event of any conflict between

the terms and conditions of this Amendment or in the Agreement, the terms and conditions of this Amendment shall control.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties have caused this Amendment No.2 to the Agreement to be executed and delivered as of the day and year first above written.

WITNESS:	**Michael Baker Engineering, Inc.**
_____	_____
	Name: _____
	Title: _____
WITNESS:	**Town of Black Mountain, NC**
_____	_____
	Name: _____
	Title: _____

EXHIBIT 1

AMENDED TASK ORDER 1

FOR

CONSULTANT ENGINEERING SERVICES

NCTIP #EB-5547 B

Submitted to:

Town of Black Mountain, NC

By:

Michael Baker Engineering, Inc.

797 Haywood Rd

Asheville, NC 28806

08/30/2022

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Project Background

The Riverwalk Greenway was identified in the 2002 Greenway Master Plan as the "PARK CONNECTOR". Since 2002, iterations of this corridor have been identified in several studies, including the Buncombe County Master Plan (2012), US 70/Swannanoa River Greenway Feasibility Study (2010), the Black Mountain Comprehensive Plan (2014), and most recently, Black Mountain Bike Plan (2016) in which the Riverwalk Greenway consistently ranked as the highest priority of all other potential projects identified.

Preliminary engineering and a submittal to a 30% level for the Riverwalk Greenway, which included the 'B' Section (Oaks Connector) portion of the project, has been completed. After the 30% submittal, subsequent flood modeling was conducted, and it was determined that one occurrence (proposed bridge) located within the northern section of the project was not able to pass the required NCDOT H&H criteria.

Project Description

Michael Baker Engineering, Inc. (Consultant) will be providing preliminary engineering services used to guide the construction of the EB-5547-B bicycle and pedestrian improvements.

Section 'B', Preliminary engineering and submittals of 60%, 90%, and 100% completion levels. Section 'B' will include a new sidewalk along Terry Estate Drive from Black Mountain Ave to the public parking lot, on-road bicycle treatments of Terry Estates Drive, a combination of on-road bicycle treatments, sidewalk improvements to accommodate ADA compliance, a sidewalk extension for Vance Avenue (from the Terry Estates Drive intersection), as well as a Shared Use Path (SUP) section along the second half of Vance Avenue to connect to the existing Oaks Trail. Intersection improvement designs will include Terry estates Drive and Vance Avenue, a crossing of Vance near the Montreat College sports field access, and a crossing of Vance at the existing bulb (to connect to the Oaks Trail). The length of the Oaks Connector project will total approximately 0.7 miles.

Temporary construction, or permanent utility easements may be needed, otherwise, the entire project is anticipated to remain within the Town of Black Mountain Rights of Way.

It is anticipated that the advertisement, let, and construction administration will be overseen by NCDOT.

Project Goal

The Goal of EB 5547-B is to produce Preliminary Engineering plans, gain regulatory approvals, and gain rights of ways/easements (if necessary) so that the project can be advertised for construction services.

In general, milestones of are:

- 60% level for submittal and review
- Gain right of way appraisals (if applicable)

- Coordinate and attend public meetings (as required)
- 90% level plans for submittal and review
- Final (signed and sealed) Construction Plans
- Gain necessary permitting approvals

The Consultant will either self-perform or utilize sub-Consultant teaming partners for Tasks 1 through 7.

Authorizations to proceed will be needed prior to initiation of each subsequent submittal.

Approximate Timeline

Duration of Project: 18 months from NTP

A detailed timeline to reflect project milestones with input from Client will be developed upon Notice to Proceed (NTP).

Detailed Scope of Services

The scope below describes services anticipated to provide complete preliminary engineering services for EB 5547 Section 'B' (Oaks Connector) of the Black Mountain Riverwalk project. Tasks are not necessarily listed in chronological order.

1. Not Used.

2. Not Used.

3. Bike and Pedestrian Design

Design for the 'B' Section (referred to as the "Riverwalk Oaks Connector") will be provided to connect from the intersection of Black Mountain Avenue and Terry Estates Ave. to The Oaks Greenway. Through this contract the plans will be generated for levels of required NCDOT review including , 60%, and 90% submittals, followed by final 100% (signed and sealed) plan submittals. Refinements will be made for each subsequent submittal related to factors including, but not exclusive of, alignments, right of ways, and utilities.

All designs will be in accordance with the current NCDOT, AASHTO, and MUTCD guidelines and standards, as well as applicable accessibility standards such as American Disability Act (ADA) and/or Public Right-of-Way Accessibility Guideline (PROWAG).

60% Submittal

Submittal will advance the 30% design. The Consultant will submit PDFs of the submittal package and one (1) half size hard copy set of the plans.

- Refinement of 30% plans including:
    - Title Sheet

- Horizontal plan sheets-Plans will be provided reflecting locations of SUP alignment, grading limits, existing right-of-way and property lines, proposed right-of-way (including proposed easements), line and curve data, limits of construction, and reference data for both traverse and construction control points. Stationing will be provided on alignment plans indicating locations cross sections, and profile views.
- Profile Sheets with Vertical Design for SUP alignments –Profiles of the proposed alignment indicating vertical curve data (if deviates from existing condition), existing ground, and proposed centerline alignment.
- Typical cross sections of proposed improvements for sidewalk and SUP-Preliminary cross sections will be shown for all proposed construction provided per 100' increments along the project reflecting reference elements such as paved section, shoulders, ditches, cut and fill slope treatments. Station labels will be provided below the cross-section templates. Cross sections will contain grid lines at (2 or 5) foot intervals.
- Critical location cross sections-for select locations along the corridor that may fall between the 100' marks such as special conditions or intersections. Cross sections will reflect critical elements such as: proposed grade, existing ground, approximate existing utilities reflecting elevations (if provided in field survey), and existing structures.
- Corridor modeling reflecting limits of disturbance (slope staking)
- Draft Planting Plan
- Preliminary earthwork calculations
- Preliminary Right of Way and Easements
- Vertical clearances (if applicable)
- A Preliminary Construction Phasing Concept in a Narrative format
- A Project Coordination Checklist (if applicable)
- A Review List for Preliminary Plans
- The Phase Submittal Form
- Cost Estimate
- Signage locations (see task 5)
- Representative details related to construction such as: paving sections, fencing, ditches, vehicle exclusion devices, etc.
- Right of Way Plan Distribution Submittal – The Consultant will submit PDFs and one hard copy set of the plans with cross sections and will provide all electronic files needed to review and reproduce a hard copy set of plans and the associated engineer's estimate.
- Right of Way Revision and Design Revision Submittals (As needed) - The Consultant will submit PDFs of the plans and will provide all electronic files needed to review and reproduce a hard copy set of plans. The Consultant will submit the necessary Right of Way Revisions in accordance with the requested letter and submit revised Plan Sheet(s) to the State within 14 calendar days. The Consultant will make plan revisions including revisions to the proposed right of-way and/or easements, owners' names, etc. as requested. When revisions are made to the Right-of-Way plans, the Consultant will place a descriptive revision note in the revisions block of the sheet that will be formatted per the following example: ROW REV. - February

14, 2021 - Revised the TCE along Parcel 5. (Initials of Engineer). These notes will remain on all subsequent plans until the 100% Plan Submittal.

- Graphics- visual simulations and renderings of the project will be generated to be utilized in public meetings, and generally to promote project outreach. Graphics will include:
    - one (1) site specific photo mockup reflecting proposed conditions overlaid on existing conditions,
    - one (1) master plan graphic (reflecting Sections 'A' & 'B'),
    - three (3) graphic cross sections of applied typologies.

90% Submittal

The Consultant will submit PDFs of the submittal package and one (1) half size hard copy set of the plans.

- 90% submittal package will include the following:
    - All items listed for previous submittals
    - Summary of Drainage Items
    - Summary of Pavement Removal
    - Earthwork Summary Sheet
    - Special Detail Request
    - Parcel Index Summary, if more than two plan sheets.
    - Written Documentation Outlining the Comments Made and a Detailed Explanation on How Comments were Addressed.
    - A Project Coordination Checklist (if Applicable)
    - A Review List for Final Plans
    - The Phase Submittal Form
    - Draft specification package
    - Cost Estimate
    - Refined earthwork calculations
    - Revised signage locations
    - Revised Planting Plan
    - Revised representative details related to typical SUP construction such as: fencing, furnishings, signage, vehicle exclusion devices, etc.

Final Plans (signed and sealed)

Final Plan Production will consist of addressing any comments provided from the 90% review, and packaging of the plans as a final sealed set. The Consultant will submit PDFs of the submittal package, one full size hard copy set of the plans, and will provide electronic files needed to review and reproduce a hard copy set of plans and the associated engineer's estimate. The Consultant will prepare Final Sealed Plans addressing the comments from Plan Checking and provide them to the Town within 6 calendar days from receiving the comments from Plan Checking. The Consultant will also provide a written response to each comment from Plan Checking describing how the plans were revised. If the sealed, signed and dated PDFs cannot be submitted before returning them to Plan Checking, the Consultant will coordinate delivery with the Town and NCDOT.

- The Consultant shall prepare Final Plans to include the following:

- All items listed for previous submittals
- Quantity Calculations and Estimate
- List of General Notes, List of Standard Details and Index of Sheets – These will be submitted as 8.5" by 11" Word™ or Excel™ documents and will be transferred to the 1-A Sheet only after review by Contracts and Proposals with any necessary revisions incorporated.
- List of Special Provisions
- Cost Based Estimate Quantity Breakdown
- Determination of Lump Sum Grading Warrants
- Written Documentation Outlining the Comments Made and a Detailed Explanation on How Comments were Addressed.
- A Project Coordination Verification Checklist (if Applicable)
- A Review List for Final Plans
- The Phase Submittal Form
- Quantity Computations – These will be completed on the State's standard Calculation of Quantity forms as found on the NCDOT Contracts Resources website
- Plan reflecting limits of disturbance
- Cost Estimate
- Final earthwork calculations
- Final signage locations
- Final Planting Plan
- Final details related to typical SUP construction such as: fencing, furnishings, signage, vehicle exclusion devices, etc.

4. Right of Way

It is assumed that the project will be located within Town right of way. If parcels or appraisals are needed, they will be invoiced at the per parcel prices.

The Consultant's right of way Sub-Consultant will provide an estimate of value for each parcel at the direction of the Town. It is our recommendation that all settlements be attempted with a Right of Way Claim Report if the estimated Value is under $10,000. Should settlement not be reached using a Right of Way Claim Report the Town would then obtain an appraisal.

Appraisal Formats

- Sub-Consultant, using current market data, will provide a spreadsheet showing approximate per square foot values for each parcel on the project. This approach would be the equivalent of an NCDOT Right of Way Claim Report.
- Sub-Consultant will provide a Right of Way Transmittal Summary on any parcel as directed by the Town.
- Sub-Consultant will provide a Full Narrative Appraisal on any parcels as directed by the Town.
- Using the approved appraised value Sub-Consultant will negotiate and secure a signed easement agreement on all parcels and hand deliver the original to the Town.
- A minimum of 3 attempts to settle with each property owners will be made.

- In the event a property owner refuses to settle, or negotiations reach an impasse, Sub-Consultant will deliver to the Town a written recommendation to acquire the property through condemnation along with a detailed negotiation diary and all other information regarding the attempted settlement.
- Sub-Consultant will be available to the Town for any questions, meetings, or public involvement throughout the life of this project.
- Sub-Consultant will perform all work in accordance with LAPP regulations and 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs.

5. Traffic Engineering Plans

The Consultant will develop traffic engineering plans consisting of:

- Proposed Signing and Pavement Marking Plans
    - Traffic engineering plans will address pedestrian and bicycle signing and pavement marking of the 'B' Section along Terry Estate Dr and Vance Ave.
- Pavement Marking Plans to include:
    - Sharrows on Terry Estates Ave., and Vance Ave.
    - Crosswalks at Terry Estates and Vance, as SUP crosses Vance Avenue (near Montreat Campus south entrance-ballfields) and from the SUP to the Oaks Trail at the terminus of Vance Avenue.

All Traffic Engineering plans will be developed using NCDOT accepted methods, guidelines, and standards.

<u>The Traffic Engineering Plans will be submitted as follows:</u>

- Two (2) PDF review submittals; at 60% and 90% completion
- One (1) final sealed PDF plan submittal

Exclusions:

- Traffic counts, Pedestrian counts (assumed available from NCDOT), Pedestrian surveys, Traffic analysis, Signal Phasing Recommendations/Modifications
- User costs analysis

6. Hydraulics and Erosion Control

Impacts to regulated waterways are not anticipated as part of the EB 5547-B project.

<u>Task 1: Stormwater Management Plan</u>

The CONSULTANT will perform a hydraulic field reconnaissance and photo document the site. The CONSULTANT will identify off-site drainage impacting the project, review existing drainage structures, identify potential for debris, and generally become acquainted with conditions and constraints at the site. All hydraulic design and documents will be in compliance with NCDOT's Guidelines for Drainage Studies and Hydraulic Design, November 21, 2016 edition. The

CONSULTANT will calculate flows to existing drainage structures and culverts and determine the impact of proposed construction. Drainage design will also involve curbing design for locations where added. Drainage design will be performed for 60% plans, and final plans.

Task 2: Prepare Permit Drawings

Sediment and Erosion Control design will be in accordance with North Carolina Sedimentation Control Law. The CONSULTANT will prepare drainage and erosion control designs and plans utilizing Best Management Practices selected and designed per NCDOT Erosion and Sediment Control Field Guide, Special Provisions and Standard Details. The CONSULTANT will prepare NCDEQ – Land Quality and subsequent NPDES permits for the project site and disturbed areas. The CONSULTANT will coordinate with NCDEQ and make any necessary revisions based on the permit reviewers Comments.

7. Utility Coordination

The Utility Coordinator will assist the Utility Owners in identifying conflicts and developing relocation plans that meet NCDOT requirements.

The Utility Coordinator will coordinate proactively with the project designers (Roadway, Hydraulics, Traffic, etc.) to avoid or reduce utility conflicts. The following tasks are included:

Kick-Off Meeting

- Schedule and conduct a follow-up meeting with Utility Owners.
    - Discuss utility conflicts, PUE needs, relocation time frames, cost responsibilities, and relocation packages.
    - Provide minutes of the meeting.
- Provide electronic files (.dsn and .pdf) and paper copies of the highway project plans to the utility companies.
- Identify SUE needs to the Project Manager.
- Coordinate possible conflict resolution with the Design Team.
- Utility relocations should be designed and performed by the Utility Owner's staff or by Utility Owner contracts.
- Determine preliminary utility alignments and relocation schedules.
    - Utility relocations should be scheduled to occur prior to the SUP project advertisement if possible.
- Estimate cost if requested by the Town of Black Mountain.
- Review Utility Owners' relocation plans for conflict resolution and constructability.

PUE's

- Provide PUE needs to the Design Team.
- After review and concurrence with the Utility Owners, send the preliminary utility relocation plans to all utility owners and the Team for review and comments.

UbO's and UEPD

- Prepare Utilities by Others plans and Special Provisions to the Team and the Town of Black Mountain.
- Determine utility environmental permit needs in collaboration with Utility Owner representatives and the Team. Verify environmental permits can be obtained to meet utility relocation schedules.
    - Provide environmental permit needs using Utilities by Others plans along with an environmental narrative to the Design Team.

Utility Authorizations

- Assist Utility Owners in the development of their Utility Relocation Packages.
- Receive and review Utility Relocation Package.
- Determine reimbursement eligibility for utilities with conflicts, obtain written property right documentation.

DELIVERABLES

- All submittals and deliverables shall follow the guidance and be in the format currently issued by NCDOT at the time of the submittal.
- Make all submittals to The Town of Black Mountain electronically.
- Provide all deliverables in searchable .pdf format.
- Additionally, provide Special Provisions and reports in .docx format.

8. Survey

1. Easement Platting

    - Obtain final greenway alignment and easement alignments from Michael Baker
    - Update legal references for the property ownership to current owners, if any changes since initial route survey
    - Field crew to obtain additional property line ties as necessary
    - Prepare up to two (2) separate plats across two (2) properties, mapped on 18” x 24” or 24” x 36” size sheets
    - Send preliminary plats to OWNER’S Consultant for review
    - Address comments
    - Send final plats to Michael Baker for final review
    - Upon approval of final plat, record in the Buncombe County Register of Deeds Office
    - Deliver digital files in pdf of recorded plats

Easement Plat to be developed on a per each cost of $800 upon written approval by the Client.

Easement stake or monumentation to be completed on a per each parcel unit cost of $600 upon written approval by the Client.

9. Exclusions

The Consultant can provide the following exclusions as needed through approved additional task orders with an associated fee adjustment:

- Structural design: Structural design is not anticipated for project area.
- Trailhead specific design: No trailheads are anticipated in the project area.
- Geotechnical Exploration: No geotechnical exploration is anticipated for the project area. If deemed necessary, paving design and possible underlayment/subsurface recommendations, particularly along the SUP section of Vance, may apply. If deemed necessary, the client will be notified, and geotechnical services will be coordinated with the Town of Black Mountain.
- Electrical/lighting design
- Roadway services: It is understood that the corridor will be located within Town right of way, and that no temporary roadways, or related services will be required
- Bid Package Preparation and Support
- Water and Sewer (wet utility) design
- Any work resulting in significant deviations (beyond the surveyed boundary) due to conditions such as, but not limited to, landowner consent, utility conflicts, floodplain encroachments, client direction, etc.
- Stream Restoration and Stabilization services
- Wayfinding Signage plans
- Construction Management, construction oversight, shop drawings, construction engineering and/or inspections
- SUE level 'A'
- Lane closures, or other special traffic control associated with any SUE work.
- Railroad survey and coordination
- NS right of entry

Client Responsibilities:

- Coordinate, contact and provide general project oversight,
- Establish and maintain a project record,
- Gain rights of entry, or at minimum notify landowners, to access properties for field work,
- Designate one staff person as the Town's Project Manager/Administrator,
- Review Consultant deliverables in a timely manner,
- Submit deliverables via NCDOT process in a timely manner,
- Provide consolidated written review comments,
- Clarify direction in the case on any conflicting comments from different Town reviewers,
- Provide project related Town data, reports and correspondence, if available,
- Write Grant Applications and Apply for Grants,
- Negotiate agreements for easement or encroachments
- Distribution of material and advertisements of public meetings,
- Meet with affected property owners along the alignment.

EXHIBIT 2 B– COMPENSATION AND PAYMENT

Town of Black Mountain, NC / Michael Baker Engineering, Inc.

BAKER will perform the services as described in Exhibit 1 (Scope of Work) in exchange for the following fee:

CLIENT will pay a lump sum of $184,232.79 (one hundred eighty-four thousand, two hundred thirty-two dollars and seventy-nine cents).

BAKER will submit monthly invoices to CLIENT on a percent complete basis. Invoices shall be remitted to:

EFT/ACH:

Michael Baker International
Citizens Bank
Account No.: 6101710975
ABA: 036-076-150
SWIFT: CTZIUS33
Payment Inquiries: AR@mbakerintl.com

Check:

Michael Baker International
P.O. Box 536408
Pittsburgh, PA 15253-5906

Exhibit 3

Agreement

Michael Baker
INTERNATIONAL

Client Agreement

THIS AGREEMENT entered into this 14th day of January 2019, by and between [Michael Baker Engineering, Inc. (hereinafter "**MICHAEL BAKER**") with offices at 797 Haywood Road, Suite 201 Asheville, NC 28806 and Town of Black Mountain, NC (hereinafter, "**CLIENT**").

WHEREAS, the **CLIENT** is in the business of Municipal Government, and desires **MICHAEL BAKER** to perform certain technical services.

WHEREAS, MICHAEL BAKER is in the business of providing engineering and technical services and desires to perform such services for **CLIENT**.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, and intending to be legally bound hereby, the parties agree as follows:

1. **SCOPE OF WORK.** **MICHAEL BAKER** shall perform such engineering and technical services as are described in the attached Exhibit "A", including any additions or modifications mutually agreed upon and incorporated therein (hereinafter, "Work").

2. **STANDARD OF CARE.** The standard of care applicable to **MICHAEL BAKER's** services is the degree of skill and diligence normally employed by engineers or providers of technical services performing the same or similar services.

3. **COMPENSATION AND PAYMENT.** **CLIENT** shall compensate **MICHAEL BAKER** for the Work in such manner as described in the attached Exhibit B, including any additions or modifications mutually agreed upon and incorporated therein (hereinafter, the "Payment Terms"). Partial payments for the Work shall be made monthly by the **CLIENT** to **MICHAEL BAKER** based on invoices submitted by **MICHAEL BAKER**. The **CLIENT** shall also pay **MICHAEL BAKER** a late payment charge for any payments for any outstanding balance not made within thirty (30) days of the date of applicable invoices at the rate of one and one-half percent (1½ %) per month. Regarding Subconsultants of **MICHAEL BAKER**, after receipt and approval by **MICHAEL BAKER** of **SUBCONSULTANT's** invoice prepared in such form and supported by such documents as **MICHAEL BAKER** may reasonably require, **MICHAEL BAKER** will include **SUBCONSULTANT's** invoice with **MICHAEL BAKER's** regular billings to the **CLIENT**. **MICHAEL BAKER** will make payment to the **SUBCONSULTANT** within ten (10) days after receipt of payment from the **CLIENT** for work performed by **SUBCONSULTANT**.

4. **ESTIMATES.** Any estimates provided for cost of construction, financing, and acquisition of land and right-of-ways shall be made in accordance with good engineering practice and procedure. It is understood, however, that **MICHAEL BAKER** has no control over construction costs, competitive bidding and market conditions, nor over costs of financing, acquisition of land or right-of-ways, and **MICHAEL BAKER** does not guarantee the accuracy of such cost estimates as compared to actual cost or contractors' bids.

5. **CONSTRUCTION MEANS AND METHODS.** **MICHAEL BAKER** shall not be responsible for construction means, methods, techniques, sequences or procedures of construction contractors, or the safety precautions and programs incident thereto, and shall not be responsible for such contractors' failure to perform work in accordance with the contract documents.

6. **COMPLIANCE WITH LAWS.** **MICHAEL BAKER** shall comply with all applicable provisions of the unemployment compensation, sickness and disability, Social Security laws, the Fair Standards Act and all other Federal, State, and local laws or regulations relating to employment.

7. **ASSIGNMENT BY CLIENT.** All the terms, provisions, covenants and conditions of this Agreement (including any modifications thereto) shall be binding upon, inure to the benefit of, and be enforceable by **CLIENT**, its successors and assigns; provided however, that no portion of this Agreement (including any Task Order) and the rights and obligations thereunder shall be assignable or delegable by **CLIENT**, by operation of law or otherwise, without the express prior written consent of **MICHAEL BAKER** which consent shall not be unreasonably withheld.

8. **ASSIGNMENT BY MICHAEL BAKER.** All the terms, provisions, covenants and conditions of this Agreement (including any modifications thereto) shall be binding upon, inure to the benefit of, and be enforceable by **MICHAEL BAKER**, its successors and assigns; provided however, that no portion of this Agreement (including any Task Order) and the rights and obligations thereunder shall be assignable or delegable by **MICHAEL BAKER**, by operation of law or otherwise, without the express prior written consent of **CLIENT** which consent shall not be unreasonably withheld.

9. **INSPECTION OF THE WORK.** **MICHAEL BAKER** shall grant **CLIENT** access at all reasonable times to **MICHAEL BAKER's** facilities where the work under this Agreement is being performed.

10. **CHANGES.** The **CLIENT** may, at any time prior to the completion of the Work, direct, in writing, any changes to the Work, including but not limited to the revision of the Work's scope, time period, or schedule of performance. **MICHAEL BAKER** shall perform such changes to the Work as directed by the **CLIENT** in writing and shall be paid for such Work at rates established by the Agreement, at actual costs, times a multiplier no greater than **2.65** to cover overhead and profit, unless agreed between the **CLIENT** and **MICHAEL BAKER**.

11. **SUSPENSION OR TERMINATION.** In the event that the Work is terminated or suspended by the **CLIENT** prior to its completion, **MICHAEL BAKER** shall be paid an equitable amount proportional to the services rendered to the date of termination or suspension, with any calculation of the value of such services to be based on the time values and unit costs set out in the RIVERWALK-NCDOT Scope and Manday Estimate Form, plus any documented termination costs. CLIENT shall have the right at any time to terminate this Agreement in whole, or in part, by written notice to MICHAEL BAKER. Upon receipt of written notice MICHAEL BAKER shall discontinue performance as immediate as possible, will not place any further orders and will promptly cancel all orders to subcontractors.

12. **DEFAULT OR CAUSE.** Should either party breach any provisions of this Agreement the non-breaching party shall have the rights and remedies provided by law or under these terms and conditions. The non-breaching Party shall have the right at any time to terminate this Agreement

in whole, or in part, if the breaching Party fails to perform any of its obligations or if the breaching Party fails to give non-breaching Party assurance of adequate performance within ten (10) working days after written request by the non-breaching Party for such assurances. In the event of a breach of the Agreement either Party may:

-Declare the breaching Party to be in default;
-Terminate this Agreement in whole or in part, in accordance with Article 12;
-Withhold payment of any further funds which may be due until the default is corrected;
-Pursue any and all other remedies afforded by law.

13. **INDEMNIFICATION.** Except as stated below, **MICHAEL BAKER** shall indemnify and save harmless the **CLIENT** from these claims, losses, lawsuits or expenses caused directly by **MICHAEL BAKER's** sole negligent acts, errors or omissions with performance of **MICHAEL BAKER's** services hereunder. To the fullest extent permitted by law, with respect to claims, damages, losses and expenses which are related to hazardous waste or asbestos removal, disposal or cleanup or environmental liability, the **CLIENT** shall indemnify, save harmless and defend **MICHAEL BAKER** from and against all such claims, damages, losses or expenses, including attorney's fees, arising out of or resulting from the performance of **MICHAEL BAKER's** services, or claims against **MICHAEL BAKER** arising from work of others.

14. **LIMITATION OF LIABILITY.** To the fullest extent permitted by law, the **CLIENT** agrees to limit **MICHAEL BAKER's** liability to the **CLIENT** and to all other contractors or subcontractors on the project for any and all injuries, claims, losses, expenses or damages whatsoever arising out of or in any way related to the project or this Agreement from any cause or causes including but not limited to **MICHAEL BAKER's** negligent acts, errors, omissions, strict liability, breach of contract, or breach of warranty, such that the total aggregate of liability of **MICHAEL BAKER** to all those named shall not exceed two times the total fee for **MICHAEL BAKER's** services rendered in the project.

15. **WAIVER OF CONSEQUENTIAL DAMAGES.** In no event shall either **MICHAEL BAKER** or the **CLIENT** have any claim or right against the other, whether in contract, warranty, tort (including negligence), strict liability or otherwise, for any special, indirect, incidental, or consequential damages or any kind or nature whatsoever, such as but not limited to loss of revenue, loss of profits on revenue, loss of customers or contracts, loss of use of equipment or loss of data, work interruption, increased cost of work or cost of any financing, howsoever caused, even if same were reasonably foreseeable.

16. **INSURANCE.** Unless otherwise required in this Agreement, the **CLIENT** and **MICHAEL BAKER** shall, during the performance of the services as provided herein, maintain insurance of the types and amounts specified, and with insurers satisfactory to the other party as follows:

Worker's Compensation	Statutorily required amounts
Employer's Liability	$1,000,000 Bodily Injury by Accident (Each occurrence)

	$1,000,000 Bodily Injury by Disease (Policy Limit) $1,000,000 Bodily Injury by Disease (Each Person)
Comprehensive General Liability	$1,000,000 Each Occurrence for bodily injury and property damage $1,000,000 Products/ Completed Operations Aggregate $1,000,000 General Aggregate over all interests
Comprehensive Automotive Liability	$1,000,000 Bodily Injury $1,000,000 Property Damage (including coverage for owned, non-owned and hired vehicles)
Professional Liability	$2,000,000 (Each claim)

17. **INDEPENDENT CONTRACTOR.** **MICHAEL BAKER** acknowledges that it is furnishing the services contemplated by this Agreement hereto as an independent contractor, and not as an employee or agent of **CLIENT** or any of its affiliates.

18. **PUBLIC ANNOUNCEMENTS. N/A**

19. **PARTIAL INVALIDITY.** If any term, covenant, condition or provision of this Agreement is found by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect, and shall in no way be affected, impaired or invalidated thereby.

20. **HEADINGS.** Headings in this Agreement are for convenience only, and are not intended to be used in interpreting or construing the terms, covenants, and conditions of this Agreement.

21. **GOVERNING LAWS.** The validity or construction of this Agreement, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of North Carolina without regard to its choice of law provisions.

22. **SUPPLEMENTS TO AGREEMENT.** The following Exhibits are an integral part of this Agreement.

Exhibit "A" Scope of Work
Exhibit "B" Compensation and Payment
Exhibit "C" NC Transporation – Contract Provisions – Flowdown Clauses

23. **ENTIRE AGREEMENT.** This Agreement constitutes the whole agreement between the parties with respect to the subject matter contained herein, and there are no terms other than those

contained herein. No modification or amendment of this Agreement shall be valid unless in writing and signed by the parties hereto. As pertaining to Exhibit C, MICHAEL BAKER shall comply with all incorporated flowdown clauses, applicable to MICHAEL BAKER and the services procured under this Agreement, included in this Exhibit.

24. **FORCE MAJEURE.** In no event shall either **MICHAEL BAKER** or the **CLIENT h**ave any claim or right against the other for any failure of performance where such failure of performance is caused by or is the result of causes beyond the reasonable control of the other party due to any occurrence commonly known as a "force majeure," including, but not limited to: acts of God; fire, flood, or other natural catastrophe; acts of any governmental body; labor dispute or shortage; national emergency; insurrection; riot; or war.

25. **REUSE OF WORK PRODUCT.** Any reuse of **MICHAEL BAKER**'s work product without written verification or adaptation by **MICHAEL BAKER** will be at the **CLIENT**'s own risk and without liability or legal exposure to **MICHAEL BAKER**. The **CLIENT** shall indemnify and hold harmless **MICHAEL BAKER** from all claims, damages, losses and expenses, including reasonable attorney's fees, arising out of or resulting therefrom. Any such verification or adaptation will entitle **MICHAEL BAKER** to further compensation at rates to be agreed upon by the **CLIENT** and **MICHAEL BAKER**.

26. **OBLIGATION OF GOOD FAITH, FAIR DEALINGS AND MITIGATION OF DAMAGES.** This Agreement imposes an obligation of good faith, fair dealings and the mitigation of damages among the parties in all matters relating to this Agreement. Good faith, for this purpose, includes honesty in fact and the observance of reasonable commercial standards of fair dealings and in the mitigation of damages even in situations where a decision is left to the sole discretion of a single party.

27. **INVENTIONS AND PATENTS.** Inventions conceived solely by employees of **CLIENT** shall belong exclusively to **CLIENT**. Inventions conceived solely by employees of **MICHAEL BAKER** shall belong exclusively to **MICHAEL BAKER**. Inventions conceived jointly by the parties hereto in the course of work called for by this Agreement shall be subject to further agreement of the parties so as to properly recognize each party's respective rights in such joint inventions.

28. **EXAMINATION OF RECORDS.** **MICHAEL BAKER** agrees that **CLIENT** will have access to and the right to examine any books, documents, papers and records of the transactions that are directly pertinent to this Agreement. MICHAEL BAKER shall maintain all records for a period of three (3) years after completion of the Work.

29. **ORGANIZATIONAL CONFLICT OF INTEREST.** **MICHAEL BAKER** understands and agrees that the performance under this Agreement may give rise to an organizational conflict of interest ("OCI"), either real, potential or perceived. To identify and assist in mitigating such an OCI, **MICHAEL BAKER** agrees to immediately:

(i) Notify **CLIENT** of any real, potential or perceived OCI known to **MICHAEL BAKER** that presently exists, state the precise nature of the OCI, and provide descriptive detail;

(ii) Notify **CLIENT** of any real, potential or perceived OCI that becomes reasonably foreseeable for **MICHAEL BAKER**, state the precise nature of the OCI, and provide descriptive detail; and

(iii) Following such notification, the Parties agree to negotiate a mutually agreeable mitigation plan. If necessary, **CLIENT** will make a good faith effort to obtain any necessary approvals of any such mitigation plan.

30. EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE. If applicable, MICHAEL BAKER shall comply with applicable laws, executive orders, and regulations concerning nondiscrimination in employment including but not limited to the Equal Opportunity Clause of Section 202, Executive Order 11246, as amended.

31. WORK HOURS AND HEALTH / SAFETY STANDARDS COMPLIANCE. If applicable, MICHAEL BAKER shall comply with applicable laws, executive orders, and regulations concerning work hours (40 USC 3702) and Health and safety standards in building trades and construction industry (40 USC 3704), as amended

32. BYRD ANTI-LOBBYING AMENDMENT CERTIFICATION. **MICHAEL BAKER** represents, warrants and covenants to **CLIENT**, as of the date hereof and the date that any invoice for goods or services is submitted, that neither **MICHAEL BAKER**, nor any of its equity holders, partners, officers, directors, employees, representatives, affiliates, sub-contractors, or other agents shall, directly or indirectly, offer, pay, promise to pay, or authorize the payment of any money, or offer, give, promise to give, or authorize the giving of any financial or other advantage or anything else of value to any Government Official for the purpose of (i) influencing or rewarding any act or decision of such official, employee, party or candidate, or (ii) inducing such official, employee, party or candidate to do or omit to do any act in violation of his or her lawful duty, or (iii) inducing such official, employee, party or candidate to use its or his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality, or (iv) securing any improper advantage for **MICHAEL BAKER**.

33. CLEAN AIR ACT & FEDERAL WATER POLLUTION CONTROL ACT COMPLIANCE. If applicable, MICHAEL BAKER shall comply with applicable laws, executive orders, and regulations concerning the Clean Air Act (42 USC 7401-7691q.) and Federal Water Pollution Control Act (33 USC 1251-1387, as amended.

34. ELIGLIBLE PARTY / AWARDEE. **MICHAEL BAKER** represents and warrants to **CLIEN**T, that it is eligible for Federal awards and is registered in System for Award Management (SAM.gov).

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties have caused this Agreement to be executed and delivered as of the day and year first above written.

WITNESS:

Michael Baker Engineering, Inc.

Name: Dennis Hathaway

Title: Vice President

WITNESS:

Town of Black Mountain, NC

Name: Don Collins 1-14-19

Title: Mayor

THE TOWN OF BLACK MOUNTAIN INCORPORATED MARCH 4, 1893 NORTH CAROLINA

TOWN OF BLACK MOUNTAIN

AGENDA ITEM SUMMARY

SUBMITTER: Angela Reece, *MPA, MMC, NCCMC,* *Project & Facilities Manager*

MEETING DATE: August 14, 2023

AGENDA SECTION: CONSENT

DEPARTMENT: ADMINISTRATION

TITLE OF ITEM: Resolution to Enter into a Contract for Engineering & Grant Administration Services for the Veterans Park Streambank Restoration -FEMA PROJECT # 436912– *Angela L. Reece, Project & Facilities Manager*

SUGGESTED MOTION(S): *I move that Town Council approve the Resolution to select _____(Firm) as most qualified and to enter into an agreement to provide engineering, design, permitting, and construction administration services to support the Veterans Park Streambank Restoration -FEMA Project # 436912 as presented.*

SUMMARY:

On August 16, 2021, the Town of Black Mountain had nearly completed a river restoration project along the Swannanoa River in Veterans Park when Tropical Storm Fred decimated the entire project area. At that time the initial restoration project was about 95% complete, lacking only planting of live stakes along the riverbank. During the event, high velocity flood waters overtopped the riverbank causing the recent restoration project to fail. Along the bank, Geolifts were damaged and/or displaced and the cobble stone rip rap was displaced into the riverbed, narrowing the stream further upriver. The flood waters also eroded the embankment across the river causing a tree to topple over resulting in further failure and collapsing of the Geolifts on that side.

Governor Roy Cooper declared a State of Emergency on August 18, 2021, and subsequently President Joseph R. Biden Jr. approved North Carolina's disaster declaration on September 8, 2021. The Town applied for and has been awarded disaster recovery funding in the amount of $163,950.00 for Tropical Storm Fred damages through the Public Assistance Program (FEMA) as directed by NC General Assembly. The Project Manager was successful in negotiating additional funding from the NC Department of Public Safety through the Unmet Needs Program in the amount *not to exceed $300,000.00 for all projects (*A portion of the total Unmet Needs funding has been allocated to reimburse the Town for the restoration of the cart path bridge at the Golf Course as a result of this disaster.) The total allocated grant funds from all sources for the restoration of the Veterans Park Stream will be approximately **$363,950.00**. There is no match required of the town for this project due to it being a federally declared disaster.

The Town intends to utilize the granted funds to restore the original project to its pre-disaster function, and capacity within the existing footprint. Since the restoration project is a federally funded project it is considered a new project (not an extension of the old) therefore, federal bidding and contracting requirements as well as specific provisions contained in uniform guidance will apply to purchasing, contracting, and reporting.

In order to initiate the new project an engineering firm must be selected to perform design and update permitting. The Project Manager has performed a qualifications-based selection and review process and has determined _____(Firm) to be most qualified, and have received and negotiated a scope of work and fee from _____ to provide Engineering, Design, Permitting, and Construction Administration Services to support the project.

The attached resolution is for the Town Council to consider approving a contract for these services for the Veterans Park Streambank Restoration -FEMA PROJECT # 436912.

ATTACHMENTS:

i. DRAFT Resolution by The Town Council of The Town Of Black Mountain to Enter Into A Contract For Engineering and Grant Administration Services for the Veterans Park Streambank Restoration -FEMA Project # 436912

ii. Engineering Services Agreement (to be provided upon selection of firm)

Resolution #R-23-

RESOLUTION BY THE TOWN OF BLACK MOUNTAIN TOWN COUNCIL TO ENTER INTO A CONTRACT FOR ENGINEERING, DESIGN, PERMITTING, AND CONSTRUCTION ADMINISTRATION SERVICES FOR THE VETERANS PARK STREAMBANK RESTORATION -FEMA PROJECT # 436912

WHEREAS, on August 16, 2021, the Town of Black Mountain had nearly completed a river restoration project along the Swannanoa River in Veterans Park when Tropical Storm Fred decimated the entire project area; and

WHEREAS, Governor Roy Cooper declared a State of Emergency on August 18, 2021 and subsequently President Joseph R. Biden Jr. approved North Carolina's disaster declaration on September 8, 2021; and

WHEREAS, the Town has been awarded disaster recovery funding from the Federal Emergency Management Agency (FEMA) in the amount of $163,950.00 as well as funding through the Public Assistance Program as directed by NC General Assembly in Session Law 2021-108. (House Bill-105) for unmet needs from Tropical Storm Fred in the amount not to exceed $300,000.00 for all projects; and

WHEREAS, the Town intends to restore the original project to its pre-disaster function, and capacity within the existing footprint; and

WHEREAS, Town Staff have performed a qualifications-based selection and have determined _____as most qualified, and have received and negotiated a scope of work and fee from _____ to provide Engineering, Design, Permitting, and Construction Administration Services to support the project

NOW THEREFORE, BE IT RESOLVED by the Town Council of the Town of Black Mountain, North Carolina that:

1. _____ is most qualified to provide professional engineering and grant administration services for the project, as recommended by Staff.
2. The scope of engineering services from _____ is approved in the amount of $_____
3. The Town Manager is authorized to execute an agreement with _____, consistent with the terms of this Resolution, as approved by the Town Attorney.

Adopted by the Town Council of the Town of Black Mountain, North Carolina on this 14th day of August 2023.

TOWN OF BLACK MOUNTAIN

AGENDA ITEM SUMMARY

SUBMITTER: Jessica Trotman, *Planning Director* **MEETING DATE:** August 14, 2023

AGENDA SECTION: PUBLIC HEARING **DEPARTMENT:** Planning

TITLE OF ITEM: Public Hearing for ***Ordinance #O-23-14*** for Text Amendment to Vested Rights

SUGGESTED MOTION(S):

1. To open the public hearing for ***Ordinance #O-23-14*** for amendments to vested rights.

2. To close the public hearing.

3. To adopt ***Ordinance #O-23-14*** (statement of consistency included) as presented [or as amended].

SUMMARY:

The current ordinance incorrectly places conditional zoning into a category of site-specific development plans with a two-year time limit for vested rights. Conditional rezoning is not subject to this time limit because the site plan is part of the zoning regulation for a parcel which exists until such time it is amended by rezoning request or amendment specific to the parcel.

BUDGET IMPACT:

Is this expenditure approved in the current fiscal year budget? N/A

If no, describe how it will be funded. N/A

ATTACHMENTS:

Ordinance #O-23-14

ORDINANCE #0-23-14

AN ORDINANCE TO AMEND APPENDIX A, LAND USE CODE, CHAPTER 1, SECTION 1.9.2, SITE-SPECIFIC VESTING PLANS

WHEREAS, the Town of Black Mountain Planning Board is charged with reviewing and updating land use planning, zoning and subdivision regulations; and

WHEREAS, the Planning Board made a commitment to the Town Council to review the text of the Land Use Code in the years since its adoption to address any residual inconsistencies in the text and to look for opportunities to clarify or improve text; and

WHEREAS, upon recommendation of the Planning Board, the following text amendment is consistent with the comprehensive plan and reasonable in the public interest because it supports the vibrant economy and the walkable and livable goal.

WHEREAS, the Town of Black Mountain has the authority, pursuant to Article 7 of Chapter 160D of the North Carolina General Statutes, to adopt land development regulations, clarify such regulations, and may amend regulations from time to time in the interest of public health, safety and welfare; and

WHEREAS, the Town Council finds that the land use code text amendment is consistent with the comprehensive plan and is reasonable and in the public interest because of the following findings:

- Removes a barrier to using conditional zoning with the correct settings because it meets the needs of conditional zoning.

WHEREAS, after notice duly given, a public hearing was held on August 14, 2023, as part of the regularly scheduled Town Council meeting at 6:00 p.m. in the Council Room of Town Hall, 160 Midland Avenue.

NOW, THEREFORE, BE IT RESOLVED that Chapter 4, Section 1.9.2 of the Town of Black Mountain Land Use Code, be amended with the following (additions are underlined in bold and deletions are shown as red struck text):

Section 1.9.2 – Site-specific vesting plans.

A. The following types of development approvals are site-specific vesting plans for purposes of this section.

1. Any development for which a special use permit is required;

2. Major and minor subdivisions;

~~3. Conditional zoning designation.~~

READ, APPROVED AND ADOPTED, by a vote of _____ to _____ on this the 14th day of August 2023.

_____
C. Michael Sobol, Mayor

ATTEST:

_____
Savannah Parrish, Town Clerk

TOWN OF BLACK MOUNTAIN

AGENDA ITEM SUMMARY

SUBMITTER: Josh Harrold, *Town Manager* **MEETING DATE:** August 14, 2023

AGENDA SECTION: NEW BUSINESS **DEPARTMENT:** Administration

TITLE OF ITEM: NCDEACS—Recycling Cart Grant Funding – *Josh Harrold, Town Manager*

SUGGESTED MOTION(S):

SUMMARY: Earlier this year, at the February 13th Council meeting, Town Council approved grant applications to NCDEACS for funding for roll-out recycling carts. The total amount to purchase the recycling carts is $ 349,163. The Town was awarded the full grant amount funding of $116,000. The Town will need to fund the remainder of $233,163. Black Mountain is the last remaining town in Buncombe County allowing the use of blue bags for recycling.

BUDGET IMPACT: Will need budget amendment

Is this expenditure approved in the current fiscal year budget? no

If no, describe how it will be funded. Fund balance appropriated

ATTACHMENTS: grant application/award letter

DocuSign Envelope ID: 09A44BDA-8B54-40F6-ABD2-43E0FB3B7FC4

GRANT CONTRACT NO. CW39015
Proposed Grant Project – 2023 Community Waste Reduction and Recycling Grant Program – Bag Reduction

STATE OF NORTH CAROLINA
COUNTY OF WAKE

GRANTEE'S FEDERAL IDENTIFICATION NUMBER: **-***1182

North Carolina Department of Environmental Quality
Financial Assistance Agreement

This financial assistance agreement is hereby made and entered into, by and between the **NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL QUALITY** (the "Department") and the **TOWN OF BLACK MOUNTAIN** (the "Grantee"[1]).

1. **Audit and Other Reporting Requirements of the Local Government Commission.** If subject to the audit and other reporting requirements of the Local Government Commission pursuant to Article 3 of Chapter 159 of the North Carolina General Statutes (Local Government Budget and Fiscal Control Act), the Grantee understands and agrees that the terms, conditions, restrictions and requirements hereinafter set forth shall only apply to the extent not inconsistent with, or superseded by, the audit and other reporting requirements of the Local Government Commission.

2. **Contract Documents.** The agreement between the parties consists of this document (the "Contract Cover") and its attachments, which are identified by name as follows:

   a. State's General Terms and Conditions (Attachment A)
   b. Department's Request for Proposals ("RFP") (Attachment B)
   c. Grantee's Response to RFP, including scope of work, line item budget, budget narrative and, *if applicable*, indirect cost documentation (hereinafter referred to generally as the "Award Proposal") (Attachment C)
   d. Grantee's Award Letter (Attachment D)
   e. Notice of Certain Reporting and Audit Requirements (Attachment E)
   f. Grantee's Conflict of Interest Policy (Attachment F)
   g. Grantee's Certification of No Overdue Tax Debts (Attachment G)

   Together, these documents (the "Contract Documents") constitute the entire agreement between the parties (the "Agreement"), superseding all prior oral or written statements or agreements. Modifications to this Contract Cover or to any other Contract Document may only be made through written amendments processed by the Department's Financial Services Division. Any such written amendment must be duly executed by an authorized representative of each party prior to the contract expiration date.

3. **Precedence Among Contract Documents.** In the event of a conflict or inconsistency between or among the Contract Documents, the document with the highest relative precedence shall prevail. This Contract Cover shall have the highest precedence. The order of precedence thereafter shall be determined by the order of documents listed in § 2 above, with the first-listed document having the second-highest precedence and the last-listed document having the lowest precedence. If there are multiple contract amendments, the most recent amendment has the highest precedence and the oldest amendment has the lowest precedence.

4. **Contract Period.** This Agreement shall be effective from **July 1, 2023** to **June 30, 2024**, inclusive of those dates.

5. **Grantee's Duties.** As a condition of the grant award, the Grantee agrees to:

   a. Undertake and deliver the grant award project, plan or services as described in the Award Proposal (Attachment C), adhering to all budgetary provisions set out therein throughout the course of performance.

[1] The contract documents attached hereto may at times use alternative terms to describe the Grantee. Such terms might include, but are not necessarily limited to, the following (in common or proper form): "recipient," "applicant," or "participant."

b. Ensure that all award funds are expended in a manner consistent with the purposes for which they were awarded, as described more fully in the attached Contract Documents.

c. Comply with the requirements of 09 NCAC 03M .0101, *et seq.* (Uniform Administration of State Awards of Financial Assistance), including, but not limited to, those provisions relating to audit oversight, access to records, and availability of audit work papers in the possession of any auditor of any recipient of State funding.

d. Comply with the applicable provisions of Attachment E, Notice of Certain Reporting and Audit Requirements.

e. Maintain all records related to this Agreement (i) for a period of six (6) years following the date on which this Agreement expires or terminates, or (ii) until all audit exceptions have been resolved, whichever is longer.

f. Comply with all laws, ordinances, codes, rules, regulations, and licensing requirements applicable to its performance hereunder and/or the conduct of its business generally, including those of Federal, State, and local agencies having jurisdiction and/or authority.

g. Obtain written approval from the Department's Contract Administrator (see § 14 below) prior to making any subaward or subgrant not already described in the Award Proposal.

h. Ensure that the terms, conditions, restrictions and requirements of this Contract Cover, including those incorporated by reference to other Contract Documents and/or applicable law, are made applicable to, and binding upon, any subgrantee who receives as a subaward or subgrant any portion of the award funds made available to the Grantee hereunder.

i. Take reasonable measures to ensure that any subgrantee (i) complies with the terms, conditions, restrictions and requirements set forth in this Contract Cover, including those incorporated by reference to other Contract Documents and/or applicable law, and (ii) provides such information in its possession as may be necessary for the Grantee to comply with such terms, conditions, restrictions and requirements.

6. **Historically Underutilized Businesses.** Historically Underutilized Businesses (HUBs) consist of minority, women and disabled business firms that are at least fifty-one percent owned and operated by an individual(s) of the categories. Also included in this category are disabled business enterprises and non-profit work centers for the blind and severely disabled.

   Pursuant to G.S. 143B-1361(a), 143-48 and 143-128.4, the Department invites and encourages participation in this procurement process by businesses owned by minorities, women, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled. This includes utilizing subcontractors to perform the required functions in this contract. Any questions concerning NC HUB certification, contact the **North Carolina Office of Historically Underutilized Businesses** at (984) 236-0130.

7. **Department's Duties.** The Department shall pay the Grantee in the manner and amounts specified below and in accordance with the approved budget set forth in the Award Proposal.

8. **Total Award Amount.** The total amount of award funds paid by the Department to the Grantee under this Agreement shall not exceed **ONE HUNDRED SIXTEEN THOUSAND DOLLARS ($116,000.00)** (the "Total Award Amount"). This amount consists of:

Funding:

Type of Funds	Funding Source	CFDA No.
Appropriations	North Carolina General Assembly	N/A

Account Coding Information:

Dollars	GL Company	GL Account	GL Center
$40,000	1602	536962	6760
$76,000	1602	536989	6760 RE-02

Grantee Matching Information:

[ ] a. There are no matching requirements from the Grantee.

[ ] b. There are no matching requirements from the Grantee; however, the Grantee has committed the following match to this project:

	In-Kind	$
	Cash	$
	Cash and In-Kind	$
	Other / Specify:	$

[**X**] c. The Grantee's matching requirement is **$8,000.00**, which shall consist of:

	In-Kind	$
X	Cash	$8,000.00
	Cash and In-Kind	$
	Other / Specify:	$

[**X**] d. The Grantee is committing to an additional **$225,163.00** to complete the project or services described in the Award Proposal.

Based on the figures above, the total contract amount is **$349,163.00.**

9. **Invoice and Payment.** The award funds shall be disbursed to the Grantee in accordance with the following provisions:

   a. The Grantee shall submit invoices to the Department's Contract Administrator at least quarterly. The final invoice must be received by the Department within forty-five (45) days following the date on which termination or expiration of this Agreement becomes effective. Amended or corrected invoices must be received by the Department's Financial Services Division within six (6) months of such date. Any invoice received thereafter shall be returned without action.

   b. The Department shall reimburse the Grantee for actual allowable expenditures, with the Department retaining a minimum of ten percent (10%) of the Total Award Amount until all grant-related activities are completed and all reports/deliverables are received and accepted by the Department. As used herein, "allowable expenditures" are expenditures associated with work conducted to meet performance obligations under this Agreement, provided such work is carried out in a manner consistent with the Award Proposal. The Department may withhold payment on invoices when performance goals and expectations have not been met or when the manner of performance is inconsistent with Attachment C.

10. **Grantee's Fiscal Year.** The Grantee represents that its fiscal year is from July 1 to June 30.

11. **Availability of Funds.** The Grantee understands and agrees that payment of the sums specified herein shall be subject to, and contingent upon, the allocation and appropriation of funds to the Department for the purposes described in this Agreement.

12. **Reversion of Unexpended Funds.** The Grantee understands and agrees that any unexpended grant funds shall revert to the Department upon termination of this Agreement.

13. **Supplantation of Expenditure of Public Funds.** The Grantee understands and agrees that funds received pursuant to this Agreement shall be used only to supplement, not to supplant, the total amount of Federal, State and local public funding that the Grantee would otherwise expend to carry out the project or services described in the Award Proposal.

14. **Contract Administrators.** Each party shall submit notices, questions and correspondence related to this Agreement to the other party's Contract Administrator. The contact information for each party's Contract Administrator is set out below. Either party may change its Contract Administrator and/or the associated contact information by giving timely written notice to the other party.

Grantee Contract Administrator	Department's Contract Administrator
Rechelle Ray, Waste Reduction Specialist Town of Black Mountain 304 Black Mountain Avenue Black Mountain NC 28711 Telephone: (828) 669-9194 Email: Rechelle.ray@tobm.org	Sandy Skolochenko North Carolina Department of Environmental Quality, Division of Environmental Assistance and Customer Service 1639 Mail Service Center Raleigh NC 27699-1639 Telephone: (919) 707-8147 Email: sandy.skolochenko@deq.nc.gov

15. **Assignment.** The Grantee may not assign its obligations or its rights to receive payment hereunder.

16. **Procurement.** The Grantee understands and agrees that all procurement activities undertaken in connection with this Agreement shall be subject to the following provisions:

    a. None of the work or services to be performed under this Agreement involving the specialized skill or expertise of the Grantee shall be contracted without prior written approval from the Department.

    b. In the event the Grantee or any subrecipient of the Grantee contracts for any of the work to be performed hereunder, the Grantee shall not be relieved of any duties or responsibilities herein set forth.

    c. The Grantee shall not contract with any vendor who is restricted from contracting with the State of North Carolina pursuant to N.C.G.S. §§ 143-133.3, 143-59.1, 143-59.2 or 147.86.60.

17. **Subawards.** The Grantee understands and agrees that any subaward or subgrant of any portion of the financial assistance provided hereunder shall not relieve the Grantee of any duties or responsibilities herein set forth.

18. **Title VI and Other Nondiscrimination Requirements.** Throughout the course of its performance hereunder, the Grantee shall comply with all applicable State and Federal laws, regulations, executive orders and policies relating to nondiscrimination, including, but not limited to:

    Title VI of the Civil Rights Act of 1964, as amended;

    Civil Rights Restoration Act of 1987, as amended;

    Section 504 of the Rehabilitation Act of 1973, as amended;

    Age Discrimination Act of 1975, as amended;

    Titles II and III of the Americans with Disabilities Act of 1990, as amended;

    Title IX of the Education Amendments of 1972, as amended;

Part III of Executive Order No. 11246 (September 24, 1965), as amended; and

Section 13 of the Federal Water Pollution Control Act Amendments of 1972.

In accordance with the above laws and their implementing regulations, the Grantee agrees to ensure that no person in the United States is, on the basis of race, color, national origin, sex, age or disability, excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity for which the Grantee receives Federal assistance. For purposes of this provision, "program or activity" shall have the meaning ascribed to that term under Federal law (see 42 U.S.C.S. § 2000d-4a).

The Grantee understands and acknowledges that, in addition to itself, any lower-tier recipient of the financial assistance provided hereunder must also comply with the requirements of this section. Accordingly, the Grantee agrees to include a similar provision in any financial assistance agreement made with any lower-tier recipient of such assistance.

19. **E-Verify.** To the extent applicable, the Grantee represents that it and each of its subgrantees, contractors and/or subcontractors performing work pursuant to, or in association with, this Agreement are in compliance with Article 2 of Chapter 64 of the North Carolina General Statutes, including, in particular, the requirement that certain employers verify the work authorization of newly hired employees using the Federal E-Verify system.

20. **Termination by Mutual Consent.** This Agreement may be terminated by mutual consent of the parties, provided the consent is documented in writing and duly executed by an authorized representative of each party.

21. **Survival.** Any provision contained in this or any other Contract Document that contemplates performance or observance subsequent to the termination or expiration of this Agreement shall survive the termination or expiration hereof and continue in full force and effect.

22. **Signature Warranty.** The undersigned represent and warrant that they are authorized to bind their principals to the terms and conditions of this Contract Cover and the Agreement generally, including those incorporated by reference to applicable law.

DocuSign Envelope ID: 09A44BDA-8B54-40F6-ABD2-43E0FB3B7FC4

IN WITNESS WHEREOF, each party has caused this Agreement to be executed by the duly authorized representative in duplicate originals, one of which is retained by each of the Parties.

TOWN OF BLACK MOUNTAIN

By_____
Grantee's Signature

Rechelle Ray
Printed Name and Title

_____
Organization

_____
Date

NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL QUALITY

By_____
Signature of Department Head or Authorized Agent

Tommy Kirby, Purchasing Director
Printed Name and Title

Financial Services Division, Purchasing and Contracts Section
Division/Section

_____
Date

ORIGINAL

General Terms and Conditions
Governmental Entities

DEFINITIONS

Unless indicated otherwise from the context, the following terms shall have the following meanings in this Contract. All definitions are from 9 NCAC 3M.0102 unless otherwise noted. If the rule or statute that is the source of the definition is changed by the adopting authority, the change shall be incorporated herein.

(1) "Agency" (as used in the context of the definitions below) means and includes every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority or other unit of government of the State or of any county, unit, special district or other political sub-agency of government. For other purposes in this Contract, "Agency" means the entity identified as one of the parties hereto.

(2) "Audit" means an examination of records or financial accounts to verify their accuracy.

(3) "Certification of Compliance" means a report provided by the Agency to the Office of the State Auditor that states that the Grantee has met the reporting requirements established by this Subchapter and included a statement of certification by the Agency and copies of the submitted grantee reporting package.

(4) "Compliance Supplement" refers to the North Carolina State Compliance Supplement, maintained by the State and Local Government Finance Agency within the North Carolina Department of State Treasurer that has been developed in cooperation with agencies to assist the local auditor in identifying program compliance requirements and audit procedures for testing those requirements.

(5) "Contract" means a legal instrument that is used to reflect a relationship between the agency, grantee, and sub-grantee.

(6) "Fiscal Year" means the annual operating year of the non-State entity.

(7) "Financial Assistance" means assistance that non-State entities receive or administer in the form of grants, loans, loan guarantees, property (including donated surplus property), cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations, and other assistance. Financial assistance does not include amounts received as reimbursement for services rendered to individuals for Medicare and Medicaid patient services.

(8) "Financial Statement" means a report providing financial statistics relative to a given part of an organization's operations or status.

(9) "Grant" means financial assistance provided by an agency, grantee, or sub-grantee to carry out activities whereby the grantor anticipates no programmatic involvement with the grantee or sub-grantee during the performance of the grant.

(10) "Grantee" has the meaning in NCGS 143C-6-23(a)(2): a non-State entity that receives a grant of State funds from a State agency, department, or institution but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission. For other purposes in this Contract, "Grantee" shall mean the entity identified as one of the parties hereto. For purposes of this contract, Grantee also includes other State agencies such as universities.

(11) "Grantor" means an entity that provides resources, generally financial, to another entity in order to achieve a specified goal or objective.

(12) "Non-State Entity" has the meaning in NCGS 143C-1-1(d)(18): A firm, corporation, partnership, association, county, unit of local government, public authority, or any other person, organization, group, or governmental entity that is not a State agency, department, or institution.

(13) "Public Authority" has the meaning in NCGS 159-7(10): A municipal corporation that is not a unit of local government or a local governmental authority, board, commission, council, or agency that (I) is not a municipal corporation, (ii) is not subject of the State Budget Act, and (iii) operates on an area, regional, or multiunit basis, and the budgeting and accounting systems of which are not fully a part of the budgeting and accounting systems of a unit of local government.

(14) "Single Audit" means an audit that includes an examination of an organization's financial statements, internal controls, and compliance with the requirements of Federal or State awards.

(15) "Special Appropriation" means a legislative act authorizing the expenditure of a designated amount of public funds for a specific purpose.

(16) "State Funds" means any funds appropriated by the North Carolina General Assembly or collected by the State of North Carolina. State funds include federal financial assistance received by the State and transferred or disbursed to non-State entities. Both Federal and State funds maintain their identity as they are sub-granted to other organizations. Pursuant to NCGS 143C-6-23(a)(1), the terms "State grant funds" and "State grants" do not include any payment made by the Medicaid program, the Teachers' and State Employees' Comprehensive Major Medical Plan, or other similar medical programs.

(17) "Sub-grantee" has the meaning in NCGS 143C-6-23(a)(4): a non-State entity that receives a grant of State funds from a grantee or from another sub-grantee but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission.

(18) "Unit of Local Government has the meaning in NCGS 159-7(b)(15): A municipal corporation that has the power to levy taxes, including a consolidated city- county as defined by NCGS 160B-2(1), and all boards, agencies, commissions, authorities, and institutions thereof that are not municipal corporations.

Relationships of the Parties

Independent Contractor: The Grantee is and shall be deemed to be an independent contractor in the performance of this Contract and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. The Grantee represents that it has, or shall secure at its own expense, all personnel required in performing the services under this agreement. Such employees shall not be employees of, or have any individual contractual relationship with, the Agency.

Subcontracting: To subcontract work to be performed under this contract which involves the specialized skill or expertise of the Grantee or his employees, the Grantee first obtains prior approval of the Agency Contract Administrator. In the event the Grantee subcontracts for any or all of the services or activities covered by this contract: (a) the Grantee is not relieved of any of the duties and responsibilities provided in this contract; (b) the subcontractor agrees to abide by the standards contained herein or to provide such information as to allow the Grantee to comply with these standards, and; (c) the subcontractor agrees to allow state and federal authorized representatives access to any records pertinent to its role as a subcontractor.

Sub-grantees: The Grantee has the responsibility to ensure that all sub-grantees, if any, provide all information necessary to permit the Grantee to comply with the standards set forth in this Contract.

Assignment: The Grantee may not assign the Grantee's obligations or the Grantee's right to receive payment hereunder. However, upon Grantee's written request approved by the issuing purchasing authority, the Agency may:

(a) Forward the Grantee's payment check(s) directly to any person or entity designated by the Grantee, or
(b) Include any person or entity designated by Grantee as a joint payee on the Grantee's payment check(s).

Such approval and action does not obligate the State to anyone other than the Grantee and the Grantee remains responsible for fulfillment of all contract obligations.

Beneficiaries: Except as herein specifically provided otherwise, this Contract inures to the benefit of and is binding upon the parties hereto and their respective successors. It is expressly understood and agreed that the enforcement of the terms and conditions of this Contract, and all rights of action relating to such enforcement, are strictly reserved to the Agency and the named Grantee. Nothing contained in this document shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the Agency and Grantee that any third person receiving services or benefits under this Contract is an incidental beneficiary only.

Indemnity

Indemnification: In the event of a claim against either party by a third party arising out of this contract, the party whose actions gave rise to the claim is responsible for the defense of the claim and any resulting liability, provided that a party may not waive the other party's sovereign immunity or similar defenses. The parties agree to consult with each other over the appropriate handling of a claim and, in the event they cannot agree, to consult with the Office of the Attorney General.

Insurance: During the term of the contract, the Grantee at its sole cost and expense provides commercial insurance of such type and with such terms and limits as may be reasonably associated with the contract. As a minimum, the Grantee provides and maintains the following coverage and limits:

(a) **Worker's Compensation:** The Grantee provides and maintains Worker's Compensation insurance as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of $500,000.00, covering all of Grantee's employees who are engaged in any work under this contract. If any work is sublet, the Grantee requires the subgrantee to provide the same coverage for any of his employees engaged in any work under this contract.
(b) Commercial General Liability: General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of $1,000,000.00 Combined Single Limit. (Defense cost shall be in excess of the limit of liability.)
(c) Automobile: Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles used in performance of the contract. The minimum combined single limit is $500,000.00 bodily injury and property damage; $500,000.00 uninsured/under insured motorist; and $25,000.00 medical payment.

Providing and maintaining adequate insurance coverage is a material obligation of the Grantee and is of the essence of this contract. The Grantee may meet its requirements of maintaining specified coverage and limits by demonstrating to the Agency that there is in force insurance with equivalent coverage and limits that will offer at least the same protection to the Agency. Grantee obtains insurance that meets all laws of the State of North Carolina. Grantee obtains coverage from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. The Grantee complies at

all times with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or this contract. The limits of coverage under each insurance policy maintained by the Grantee do not limit the Grantee's liability and obligations under the contract.

Default and Termination

Termination by Mutual Consent: Either party may terminate this agreement upon sixty (60) days notice in writing from the other party. In that event, all finished or unfinished documents and other materials, at the option of the Agency, be submitted to the Agency. If the contract is terminated as provided herein, the Grantee is paid in an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Grantee covered by this agreement; for costs of work performed by subcontractors for the Grantee provided that such subcontracts have been approved as provided herein; or for each full day of services performed where compensation is based on each full day of services performed, less payment of compensation previously made. The Grantee repays to the Agency any compensation the Grantee has received which is in excess of the payment to which he is entitled herein.

Termination for Cause: If, through any cause, the Grantee fails to fulfill in timely and proper manner the obligations under this agreement, the Agency thereupon has the right to terminate this contract by giving written notice to the Grantee of such termination and specifying the reason thereof and the effective date thereof. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the Grantee, at the option of the Agency, be submitted to the Agency, and the Grantee is entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials. The Grantee is not relieved of liability to the Agency for damages sustained by the Agency by virtue of any breach of this agreement, and the Agency may withhold payment to the Grantee for the purpose of set off until such time as the exact amount of damages due the Agency from such breach can be determined.

Waiver of Default: Waiver by the Agency of any default or breach in compliance with the terms of this Contract by the Grantee is not a waiver of any subsequent default or breach and is not a modification of the terms of this Contract unless stated to be such in writing, signed by an authorized representative of the Agency and the Grantee and attached to the contract.

Availability of Funds: The parties to this Contract agree and understand that the payment of the sums specified in this Contract is dependent and contingent upon and subject to the appropriation, allocation, and availability of funds for this purpose to the Agency.

Force Majeure: Neither party is in default of its obligations hereunder if it is prevented from performing such obligations by any act of war, hostile foreign action, nuclear explosion, riot, strikes, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

Survival of Promises: All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable Federal or State statutes of limitation.

Intellectual Property Rights

Copyrights and Ownership of Deliverables: Any and all copyrights resulting from work under this agreement shall belong to the Grantee. The Grantee hereby grants to the North Carolina Department of Environmental Quality a royalty-free, non-exclusive, paid-up license to use, publish and distribute results of work under this agreement for North Carolina State Government purposes only.

Compliance with Applicable Laws

Compliance with Laws: The Grantee understands and agrees that it is subject to compliance with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.

Equal Employment Opportunity: The Grantee understands and agrees that it is subject to compliance with all Federal and State laws relating to equal employment opportunity.

Confidentiality

Confidentiality: As authorized by law, the Grantee keeps confidential any information, data, instruments, documents, studies or reports given to or prepared or assembled by the Grantee under this agreement and does not divulge or make them available to any individual or organization without the prior written approval of the Agency. The Grantee acknowledges that in receiving, storing, processing or otherwise dealing with any confidential information it will safeguard and not further disclose the information except as otherwise provided in this Contract or without the prior written approval of the Agency.

Oversight

Access to Persons and Records: The State Auditor and the using agency's internal auditors shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions in accordance with NCGS 147-64.7 and Session Law 2010-194, Section 21 (i.e., the State Auditors and internal auditors may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees or performance). The Contractor shall retain all records for a period of six (6) years

following completion of the contract or until any audits begun during this period are completed and findings resolved, whichever is later.

Record Retention: The Grantee may not destroy, purge or dispose of records without the express written consent of the Agency. State basic records retention policy requires all grant records to be retained for a minimum of six (6) years or until all audit exceptions have been resolved, whichever is longer. If the contract is subject to Federal policy and regulations, record retention may be longer than six (6) years since records must be retained for a period of three years following submission of the final Federal Financial Status Report, if applicable, or three years following the submission of a revised final Federal Financial Status Report. Also, if any litigation, claim, negotiation, audit, disallowance action, or other action involving this Contract has started before expiration of the six (6) year retention period described above, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular six (6) year period described above, whichever is later.

Time Records: The GRANTEE will maintain records of the time and effort of each employee receiving compensation from this contract, in accordance with the appropriate OMB circular.

Miscellaneous

Choice of Law: The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties to this Contract, are governed by the laws of North Carolina. The Grantee, by signing this Contract, agrees and submits, solely for matters concerning this Contract, to the exclusive jurisdiction of the courts of North Carolina and agrees, solely for such purpose, that the exclusive venue for any legal proceedings shall be Wake County, North Carolina. The place of this Contract and all transactions and agreements relating to it, and their situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract or tort, relating to the validity, construction, interpretation, and enforcement shall be determined.

Amendment: This Contract may not be amended orally or by performance. Any amendment must be made in written form and executed by duly authorized representatives of the Agency and the Grantee.

Severability: In the event that a court of competent jurisdiction holds that a provision or requirement of this Contract violates any applicable law, each such provision or requirement shall continue to be enforced to the extent it is not in violation of law or is not otherwise unenforceable and all other provisions and requirements of this Contract shall remain in full force and effect.

Headings: The Section and Paragraph headings in these General Terms and Conditions are not material parts of the agreement and should not be used to construe the meaning thereof.

Time of the Essence: Time is of the essence in the performance of this Contract.

Care of Property: The Grantee agrees that it is responsible for the proper custody and care of any State owned property furnished him for use in connection with the performance of his contract and will reimburse the State for its loss or damage.

Ownership of equipment purchased under this contract rests with the Grantee. As it relates to software development or study results, ownership rests with the Agency. In the event that clarification of ownership is required, the Agency Contract Administrator will make the determination.

Travel Expenses: All travel, lodging, and subsistence costs are included in the contract total and no additional payments will be made in excess of the contract amount indicated in above. Contractor must adhere to the travel, lodging and subsistence rates established in the Budget Manual for the State of North Carolina.

Sales/Use Tax Refunds: If eligible, the Grantee and all sub-grantees shall: (a) ask the North Carolina Department of Revenue for a refund of all sales and use taxes paid by them in the performance of this Contract, pursuant to NCGS 105-164.14; and (b) exclude all refundable sales and use taxes from all reportable expenditures before the expenses are entered in their reimbursement reports.

Advertising: The Grantee may not use the award of this Contract as a part of any news release or commercial advertising.

Recycled Paper: The Grantee ensures that all publications produced as a result of this contract are printed double-sided on recycled paper.

Sovereign Immunity: The Agency does not waive its sovereign immunity by entering into this contract and fully retains all immunities and defenses provided by law with respect to any action based on this contract.

Gratuities, Kickbacks or Contingency Fee(s): The parties certify and warrant that no gratuities, kickbacks or contingency fee(s) are paid in connection with this contract, nor are any fees, commissions, gifts or other considerations made contingent upon the award of this contract.

Lobbying: The Grantee certifies that it (a) has neither used nor will use any appropriated funds for payments to lobbyist; (b) will disclose the name, address, payment details, and purpose of any agreement with lobbyists whom the Grantee or its sub-tier contractor(s) or sub-grantee(s) will pay with profits or non-appropriated funds on or after December 22, 1989; and (c) will file quarterly updates about the use of lobbyists if material changes occur in their use.

2023 Community Waste Reduction and Recycling Grant Program

REQUEST FOR PROPOSALS

N.C. Department of Environmental Quality
Division of Environmental Assistance and Customer Service

The purpose of this grant program is to assist local governments with the implementation, expansion, and improvement of waste reduction and recycling programs in North Carolina. The Division of Environmental Assistance and Customer Service (DEACS) administers the Community Waste Reduction and Recycling (CWRAR) grant program through the Solid Waste Management Outreach Program.

With the release of this Request for Proposals (RFP), DEACS is seeking proposals that help communities build lasting capacity to divert materials from the waste stream and / or that increase public awareness of waste reduction and recycling. Applicants should carefully read this entire RFP prior to submitting a proposal.

Contact: Sandy Skolochenko
919-707-8147
sandy.skolochenko@ncdenr.gov

Proposals Due: February 16, 2023 by 5:00pm

Grant Funding: Up to $30,000 for Standard Projects
Up to $40,000 for Priority Projects

Cash Match: 20% of grant award

Project Period: July 1, 2023 – June 30, 2024

What Types of Projects are Eligible?

DEACS seeks viable, well-planned proposals from local governments in North Carolina for projects that will initiate, expand, or improve waste reduction and recycling programs. Grant money may be used to help purchase physical infrastructure or equipment to divert materials from the waste stream, or to purchase, print and distribute educational materials to inform the public about waste reduction and/or recycling programs.

Priority Project Grants – *Eligible for up to $40,000 in grant funding*
Priority Project Grants support investments in public recycling program areas that have been determined by DEACS to be of particular importance to growing and expanding efficient and effective waste reduction and recycling services throughout North Carolina.

2023 CWRAR Priority Projects include:

- Implement new or expand existing curbside recycling programs or help transition a curbside recycling program from collection using bins or blue bags to a cart-based collection system.
- Conduct outreach enforcement efforts (e.g., tagging program) to reduce contamination in the recycling stream and improve material quality. If seeking funding for educational enforcement efforts, please see additional provisions in the Special Requirements section.
- Establish or expand glass recycling collection. To qualify as a Priority Project, the community must collect glass to be recycled by a downstream glass recycling processor, not to be sent for end-use applications such as aggregate or daily cover.
- Implement new permanent Household Hazardous Waste (HHW) programs. To qualify as a Priority Project, the permanent HHW program must be open to the public at least four (4) separate days during any given fiscal year.

By Executive Order 24, issued by Governor Perdue, and NCGS § 133-32: It is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Natural and Cultural Resources, Environmental Quality, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor). This prohibition covers those vendors and contractors who:

(1) have a contract with a governmental agency; or

(2) have performed under such a contract within the past year; or

(3) anticipate bidding on such a contract in the future.

For additional information regarding the specific requirements and exemptions, vendors and contractors are encouraged to review Executive Order 24 and NCGS Sec. 133-32.

Executive Order 24 also encouraged and invited other State Agencies to implement the requirements and prohibitions of the Executive Order to their agencies. Vendors and contractors should contact other State Agencies to determine if those agencies have adopted Executive Order 24."

Standard Project Grants – *Eligible for up to $30,000 of grant funding*
Standard Project Grants include any projects that increase or enhance public waste reduction and recycling but fall outside of the 2023 priorities. Standard Projects may include but are not limited to drop-off recycling infrastructure, vehicles and infrastructure for recycling collection or consolidation, education and outreach initiatives, construction and demolition recycling, electronics recycling, or recycling of specialty wastes such as fluorescent bulbs, motor oil, cooking oil, batteries, or latex paint.

Food Waste Projects

All projects related to food waste collection, donation or recycling are encouraged to apply for the special Food Waste Reduction grant *that will be announced in October of 2022.*

Eligible and Ineligible Expenses

Examples of *approved uses* of CWRAR grant funds include site development costs, construction of facilities to handle recyclable materials, equipment or vehicle purchases, equipment installation costs, and educational materials such as signs, mailers, handouts or brochures.

Grant funds *may not be used* for employee salaries, land acquisition costs, administrative expenses such as overhead, utility costs, studies or work performed by consultants, contracted collection costs, and / or payment for other contracted recycling services such as payment to a vendor for operating a household hazardous waste collection event.

How Grant Funds Work

All CWRAR grant funds are distributed on a reimbursement basis. Purchases must be made during the grant contract period and requests for reimbursement can be made after the grantee has completed and paid for grant purchases. State and local sales taxes are not reimbursable and should be excluded from grant expenditure totals. DEACS will continue to reimburse grantees until 90% of the award amount has been expended, withholding 10% of funds until receipt of an approved final report.

Available Funding

Standard Project: Applicants may request any amount of grant funding up to a maximum of **$30,000**.
Priority Project: Applicants may request any amount of grant funding up to a maximum of **$40,000**.

Cash Match

CWRAR grants require a cash match of at least 20 percent of the requested grant funding. For example, a grantee requesting a $20,000 grant must match at least $4,000 with local funds for a total project cost of $24,000. Distributions from the $2 per ton Solid Waste Disposal Tax may be used to cover cash match requirements. In-kind contributions will not be accepted in lieu of cash match.

To calculate the necessary cash match for any grant project, determine the total budget associated with the project and then use the following equation: total project budget ÷ 6 = required cash match.

Contract Period:

Successful grant applicants will be required to enter into a grant contract with the N.C. Department of Environmental Quality (NCDEQ). The resultant grant contract period is generally one year and intended to align with the local government fiscal year beginning July 1, 2023 and ending June 30, 2024. Grantees must expend funds within the year-long contract period unless the grant contract end date is extended by written agreement between the applicant and NCDEQ. Extensions are possible but not guaranteed. All purchases must be made within the grant contract period. *Any purchases made prior to the start of the grant contract or after the end date of the grant contract will not be eligible for reimbursement.*

Who is Eligible?

Local governments, defined as counties, municipalities, councils of governments and solid waste authorities in North Carolina, are eligible to apply for funding from the CWRAR grant program.

Former CWRAR grantees are eligible to apply. Applicants with an open 2022 CWRAR grant contract must have invoiced for 90% of eligible grant funds by the proposal due date (February 16, 2023). Proposals will not be accepted from applicants with an open CWRAR grant from cycles prior to 2022. Applicants with open grants from other programs (e.g., Abandoned Manufactured Home Grants, Glass Equipment Infrastructure) are eligible to apply if open grants are in good standing and expected to be completed on time.

Federal and state agencies, universities and colleges, and non-profit organizations *are not eligible for funding* through this grant program. Public schools are not eligible for funding through this grant program; however, local governments may apply for funding to support public school recycling projects - see Special Requirements section below.

Conditions on Submittals

- *Only one proposal per eligible entity will be accepted.* Grant proposals may combine funding requests for multiple types of projects into one proposal. The available funding limits still apply.
- Joint projects are encouraged in which two or more local governments partner on a project and contribute funding. Any local government participating in a joint project proposal may not submit additional proposals.
- Proposals will not be accepted from local governments that have not submitted the required Solid Waste and Materials Management Annual Report for the most recent fiscal year.

How to Submit Proposals:

One electronic copy of the proposal must be submitted by email to sandy.skolochenko@ncdenr.gov. Receipt of all acceptable proposals will be acknowledged by email. *If you do not receive a confirmation, contact Sandy Skolochenko at 919-707-8147 as soon as possible.* It is the responsibility of anyone submitting a proposal to contact DEACS if they do not receive a confirmation. No arrangements will be made for lost proposals after the due date.

Please submit electronic versions of proposals as Microsoft Word (preferred) or Adobe (PDF) files. If submittal of an electronic version of a grant proposal presents a hardship, please contact Sandy Skolochenko to discuss submittal options.

Proposal Due Date:
Proposals must be received by DEACS by *5:00 p.m. on Thursday, February 16, 2023.* Any proposals received after the deadline will not be considered. Local governments requiring board approval to apply for grant funds should plan to procure that approval before the submittal deadline.

Word of Advice for Grant Writing:
Available funding is limited, and it is anticipated that the 2023 CWRAR grant round will be highly competitive. For this reason, it is important that projects seeking grant funding be well thought out and well planned, and that applicants provide all information as outlined in the Required Proposal Format section. Proposals that seek grant funds for the replacement of existing equipment will be scored substantially lower than projects that implement new recycling services or projects that expand existing recycling services.

Applicants are strongly encouraged to contact Sandy Skolochenko at (919) 707-8147 or sandy.skolochenko@ncdenr.gov to discuss potential grant projects prior to submitting a proposal.

Required Proposal Format:

The following outline indicates what applicants *must* include in their proposal for it to be considered complete. Proposals that fail to provide all the required information or that fail to follow this format may not compete well and may not be considered for funding.

- Project Title
- Applicant Contact Information: to include:
  - ✓ Name and title of main contact
  - ✓ Organization
  - ✓ Address
  - ✓ Phone number
  - ✓ Email address
- Date of Proposal Submittal
- General Requirements: see General Requirements section below for more information
  - ✓ Written statement certifying that Solid Waste Disposal Tax Proceeds are used only for solid waste management purposes and a description of how proceeds are used.
  - ✓ Written statement indicating that the applicant has recycling services for cans, bottles and paper available at the key government buildings and a list of the materials collected.
  - ✓ Written statement indicating that the applicant has established a program for the collection and recycling of fluorescent lights and mercury containing thermostats from public buildings owned by the applicant.
- Project Description: Provide responses to each of the following prompts below. Applicants are encouraged to provide a clear project description and consider the Award Criteria as they describe the project elements.

  1. Describe the proposed project and identify specifically what items (and how many) you intend to purchase with grant funds. If the project will implement a new recycling program or improve an existing recycling program, provide a list of the recyclable materials that will be accepted and indicate where will they be taken for processing or marketing.
     (Planning: 0-20 points; Priority Project: 0-10 points)
  2. What is the anticipated service life for the items or materials to be purchased with grant funds? Estimate how long the project will continue to serve the community and how you will financially and operationally sustain the project after the grant ends.
     (Planning: 0-20 points; Efficiency/Cost Effectiveness: 0-20 points)
  3. How does the proposed project address a specific recycling need for the community? Will the grant project create a new service, enhance or expand an existing service, or support an existing recycling service without expanding that service?
     (Demonstration of Need: 0-20 points)
  4. How many households or businesses will be impacted by or have access to the recycling services associated with the proposed project?
     (Demonstration of Need: 0-20 points; Efficiency/Cost Effectiveness: 0-20 points)
  5. Estimate the number of tons of waste expected to be reduced annually as a result of the proposed project. Explain how you came up with the estimate.
     (Waste Reduction Impact: 0-25 points)
  6. Describe any partnerships associated with the proposed project. Please include documentation of support from any partner entities.
     (Joint Effort: 0-5 points)

- Special Requirements: Proposals for recycling education, school recycling, electronics recycling or away-from-home recycling must include additional information as stipulated in the Special Requirements section below.
- Project Timeline: Simple bulleted list showing approximate dates for major project milestones. Timeline must begin on or after July 1, 2023 and project must be complete by June 30, 2024. Please follow the example below:
  - ✓ November 1, 2023: Carts and educational materials purchased and commercial recycling program launched *(adjust based on proposed project)*
  - ✓ May 31, 2024: Submit all invoices and draft Final Report to DEACS *(required)*
  - ✓ June 30, 2024: Submit Final Report to DEACS *(required)*
- Project Budget: Please submit a table following the example below. Table should include an itemized list of intended expenditures and estimated costs. Total row should reflect the total project cost with breakdown of grant funds requested from the state and amount of matching funds to be provided by the applicant. Applicant Cash Match must be at least 20% of State Grant Award.

Project Elements	**Estimated Cost**		
Recycling Carts for Commercial Recycling Program	$ 10,500		
Labels for Carts and Signs for Recycling Sites	$ 900		
Program Brochures (Printing)	$ 600		
	Total Project Cost	**State Grant Award**	**Applicant Cash Match**
Total Project Budget	**$ 12,000**	**$ 10,000**	**$ 2,000**

** State and local sales taxes are not reimbursable expenditures and should not be included as part of grant budgets.*

General Requirements – *for all applicants*

- Solid Waste Disposal Tax proceeds: Solid Waste Disposal Tax proceeds are distributed to eligible local governments on a quarterly basis by the Department of Revenue. According to G.S. § 105-187.63, these funds must be used by a city or county solely for solid waste management programs and services. CWRAR grant applicants must certify in writing that all disposal tax proceeds are used only for the purpose of providing solid waste and recycling services. In addition to this written certification, applicants should describe how disposal tax funds are utilized and whether proceeds will be used to supply matching funds.
- Public Building Recycling Services: CWRAR grants will not be awarded to applicants that do not have recycling services for cans, bottles, and paper available at their government buildings. As part of the grant proposal, all applicants must indicate that employees in the key government buildings operated by the applicant have reasonable access to recycling services and are able and encouraged to recycle materials generated in the course of government business. Please include a list of the materials collected for recycling at these facilities.
- Mercury Product Recycling: G.S. § 130A-310.60 requires that any public agency using state funds for the construction or operation of public buildings shall establish a program for the collection and recycling of all spent fluorescent lights and thermostats that contain mercury generated in public buildings. As part of the grant proposal, all applicants must indicate that they have a program in place for the collection of fluorescent lights and mercury thermostats from their public buildings. If the applicant does not have a program in place for the collection of these materials, then as a precondition of any grant award the applicant must initiate such services.

Special Requirements – *only for applicants seeking funding for recycling education, school recycling, electronics recycling, or away-from-home recycling projects*

Special Requirements for Recycling Education/Enforcement Projects

1. Provide a list of the recyclable materials accepted by the program and indicate how the materials are to be collected (single stream, dual stream, source separated). If the grant proposal is for regional outreach materials, all local governments or entities participating must agree on a common list of materials for recycling and provide that common accepted list with the grant proposal.
2. If the grant proposal is for regional outreach materials, a letter of agreement and support must be provided by each participating local government or entity. Each participating entity should establish and provide a designated recycling contact for project coordination.
3. Identify the primary message of the outreach effort.
4. Indicate whether you will be using your own design or if you will be using DEACS customizable design services. https://deq.nc.gov/conservation/recycling/general-recycling-information/customized-outreach-materials
5. Supply mock-ups or example graphics for the outreach materials, enforcement tags, or ads. Are your materials dependent on words or images?
6. Acknowledge that you will adhere to the following if the grant is awarded:
    - Discuss the material design with your assigned DEACS grant manager as soon as possible to ensure clear communication about the project content and timing.
    - Documents must be submitted for review prior to printing or execution. Reviews may take up to two weeks, so plan accordingly and submit well in advance of printing. It is often helpful to submit an initial draft for early feedback.
    - Post your community's accepted recyclables list online.
    - Program changes can affect the grant and messaging. Inform DEACS immediately if program changes occur to determine if a contract amendment is needed.

Special Requirements for Public School Recycling Projects

1. Describe the existing school recycling program (if any) that is available in the school system associated with the grant project.
2. List all the public agencies and/or departments that collaborate to assist with or operate the school recycling program and list the role of each entity.
3. A designated recycling contact should be established for each school facility participating in the recycling program. Examples of designated contacts might include school facility manager, head custodian, the faculty coordinator or leader of a group or club, the principal, or school administrator. Please provide a list of schools to be served by this project and the name and title of a designated recycling contact for each.
4. Indicate the locations where recycling containers are or will be placed at the school facilities (e.g., classrooms, cafeterias, hallways, athletic fields, administrative offices, library, copy rooms, etc.).
5. Indicate who will be responsible for emptying the recycling containers (e.g., custodian / cleaning staff, teachers, students, student groups, etc.).
6. Provide a plan for promoting recycling within the schools impacted by the grant project as well as a plan for educating staff and students about the program.

Special Requirements for Electronics Recycling Projects

Any community seeking grant funds to support an electronics recycling program must make themselves eligible to receive funds distributed from the state's Electronics Management Program. More information available at: http://deq.nc.gov/about/divisions/waste-management/solid-waste-section/electronics-management/nc-local-governments-info-page.

Applicants should indicate if they are already eligible and have received Electronics Management Fund distributions in the past.

- If so, explain how those funds have been used and how the community intends to use the funds that will be distributed in February 2023 and February 2024.
- If not, explain how the community will make themselves eligible to receive funds and how they intend to use funds that will be distributed in February 2023 (if applicable) and February 2024.

Note: municipal applicants may decide whether or not to request Electronics Management Funds directly or allow the county to receive funds. If the county will be receiving funds, please explain the electronics recycling partnership with the county government.

Special Requirements for Away-From-Home Recycling Projects:

Grant funds for away-from-home recycling projects can only be used for recycling related purchases and cannot be used to pay for the purchase of away-from-home receptacles for the collection of waste (garbage). If a proposal includes the purchase of away-from-home receptacles that collect BOTH waste and recyclables, grant funding may be applied only to the recycling portion and the grantee will be responsible for covering the full cost of the waste portion. For example, if a community purchases a combo waste / recycling station that has one slot for garbage and one for recyclables and the receptacle costs $1,200, only the recycling portion ($600) may be included as an eligible grant expenditure. Grant funds would cover $500 and the grantee would cover $100 to meet the 20% match. If seeking funding for an away-from-home recycling project, please indicate whether any of the containers will be used to collect waste (garbage) that will be disposed in a landfill.

Applicants for away-from-home related grant projects are strongly encouraged to specify which particular recycling receptacles are being considered for purchase as a part of their proposal.

How are Proposals Evaluated?

A selection committee will use the pre-established Award Criteria identified below to rank proposals and make award decisions. The review process is expected to be completed and preliminary award announcements should be made by April 2023.

Award Criteria:

Applicants are encouraged to consider the following Award Criteria as they develop their grant proposals.

1. **Demonstration of Need (0-20 points):** Does the proposed project address a specific equipment, educational, or infrastructure need for the community?
2. **Planning (0-20 points)**: Did the Project Description include all necessary elements as outlined in the Required Proposal Format? Is the proposal well thought out, well researched and backed by valid facts and assumptions? Is the project consistent with recycling industry best management practices?
3. **Waste Reduction Impact (0-25 points)**: Will the project contribute substantially toward reduction of the local waste stream, or will it substantially increase tonnage recovered through recycling services? Will the project improve the material quality in the recycling stream by reducing contaminants?
4. **Efficiency / Cost-effectiveness (0-20 points)**: Will the project improve the efficiency or cost-effectiveness of the local waste reduction program? Does the project increase the efficiency or effectiveness of an existing recycling service? Does the project reduce the operating cost of a current recycling service, or does it adopt practices proven to be cost effective in other communities? Does the project make investments that will continue to serve the community for years to come?
5. **Joint Effort (0 or 5 points)**: One-party proposals will receive zero (0) points; multi-party proposals (involving cash match from all participants) will receive five (5) points.
6. **Priority Project (0-10 points)**: Is the project seeking funding for a Priority Project Grant? To what extent does the project support investments in one of the Priority Project Grant categories?

If a Proposal is Selected for Funding

DEACS anticipates that applicants selected to receive grant funding will be notified by the end of April 2023. Upon consideration of the proposals received, DEACS reserves the right to award grant amounts that are lower than the amount requested by an applicant.

DEACS will notify the applicant with a formal offer by e-mail. The applicant must accept or decline the offer. The following will occur once the offer of grant funding is accepted:

- DEACS may work with applicants to revise initially submitted proposals before entering into a grant contract. Any changes to initial proposals must be approved by DEACS and the applicant and the resultant Final CWRAR Proposal will become an attachment to the grant contract.
- Successful applicants will be required to:
    - Provide their federal tax ID number.
    - Register with the state's e-procurement system using the same address provided in the applicant's proposal. To register in the state's e-procurement system or confirm/update your existing registration, please visit the following link: http://eprocurement.nc.gov/.
    - Submit a Conflict of Interest Policy using the following template or submitting a copy of your organization's existing policy: https://deq.nc.gov/conservation/recycling/programs-offered/grants-local-governments#Forms.
- All applicants selected for funding will undergo a compliance review to ensure that they do not have an outstanding Notice of Violation (NOV) related to North Carolina solid waste statutes and rules. Any outstanding NOVs must be corrected to the satisfaction of the N.C. Division of Waste Management (DWM) prior to any grant being awarded. Applicants with outstanding NOVs are responsible for providing DEACS with information from DWM indicating that the community is in compliance and that the NOVs have been corrected before a grant contract can be initiated.

- DEACS will submit a request through the NCDEQ contract processing system for a grant contract. Grantees must act to execute the resultant grant contract without excessive delay.

Other General Terms and Conditions:

All grantees are subject to the following terms and conditions. Most of these terms and conditions will be outlined in the grant contract.

- **Publications:** all documents and publications associated with a grant contract should be printed on recycled paper containing at least 30 percent post-consumer content.
- **Final reports:** a draft final report is required to be submitted to DEACS at least 30 days prior to the contract end date and a final report is required to be submitted by the contract end date. Final reports and drafts should be submitted electronically. Final report guidelines are available at: https://deq.nc.gov/conservation/recycling/programs-offered/grants-local-governments.
- **Reimbursement:** distribution of DEACS grant funds is on a reimbursement basis. Reimbursement requests must be submitted on letterhead, must include copies of invoices, and must include proof that the grantee has made payment. Proof of payment may include copies of canceled checks or other financial reports showing that funds were spent. State and local sales taxes are not reimbursable, may not be counted towards expenditure requirements, and should be excluded from reimbursement requests. The amount of actual grant payments may be prorated for projects and / or project elements that come in under budget. *Successful applicants that make purchases before a grant contract is signed by both NCDEQ and the grant recipient will not be reimbursed.*
- **Final 10 Percent of Funds:** DEACS will continue to reimburse grantees until 90 percent of the grant award amount has been expended, withholding 10 percent of grant funds until receipt of an approved final report. The final report must be received and approved prior to the end date of the contract.
- **Extensions / Amendments:** no-cost time extensions are possible but not guaranteed for grant contracts. Grantees seeking no-cost time extensions should submit a request for a time extension at least sixty (60) days prior to the contract end date.

TOWN OF BLACK MOUNTAIN
160 Midland Avenue
Black Mountain, NC
Telephone: (828) 419-9300

Tausha Millwood: Senior Administrative Assistant

Jamey Matthews: Public Works Director

Proposed Grant Project – 2023 Community Waste Reduction and Recycling Grant Program – Bag Reduction

Rechelle Ray, Waste Reduction Specialist
Town of Black Mountain
304 Black Mountain Avenue
Black Mountain, NC 28711
(828) 669-9194
Rechelle.ray@tobm.org

February 16, 2023

General Requirements

The Town of Black Mountain is a local municipality in Buncombe County. All revenues received from the NC Solid Waste Disposal Tax quarterly distribution are posted to an account solely for use in our Solid Waste Department within Public Works. Per GS 10-187.63, these funds are used solely for solid waste management programs and services.

The Town of Black Mountain provides recycling services including material pickup within town owned buildings and town employees are encouraged to recycle. Town employees can recycle cans, bottles, glass containers and paper.

The Town of Black Mountain collects fluorescent bulbs from town-owned buildings and delivers them to the county. Once collected they are accumulated with fluorescent bulbs and other mercury containing devices and a processor, such as CleanLites Recycling, is then called to recycle the materials.

Project Description

The Town of Black Mountain began in-house Solid Waste and Single Stream Recycling (SSR) collection in 2020 after our contract with Waste Pro ended. Approximately 4,700 households have access to bi-weekly collection with the option to purchase their own cart or utilize blue bags as a container for recyclables. While blue bags are a cost-effective option, they are not

recyclable with Curbside Management (Curbie) and are considered a contaminant. The Town of Black Mountain is one of the last remaining municipalities in Buncombe County using the blue bag recycling system.

Nancy Lawson, Co-Owner of Curbie, informed us during a tour that plastic bags make up about 70% of the contamination at their Materials Recovery Facility (MRF). They staff laborers daily who prioritize removing contaminates like plastic bags. The tedious task of removing plastic blue bags from the recycling stream slows their daily operations. Curbie spends over $10,000 monthly to send contaminates like blue bags to landfill.

Switching from blue bags to recycling carts provides a safer working environment for sanitation workers who will not have to bend over as regularly to lift heavy and unorganized recyclables. Workers' compensation claims and insurance premiums may decrease overtime.

The Town of Black Mountain does not actively promote the county's educational resources because blue bags contradict their slogan of leaving all recyclables unbagged. Switching to recycling carts will give the Town of Black Mountain access to more county resources.

To further improve the quantity and quality of recyclables collected in the Town of Black Mountain, the Town is seeking Community Waste Reduction and Recycling Grant funding as a priority project to promote recycling. The town plans to purchase approximately 4,750 96-gallon recycling carts to enhance and standardize our collection service if awarded grant funding. The elimination of blue bags and the change to cart-based recycling improves the quality of materials recovered, increases recycling tonnage, provides safer working conditions for our town's sanitation department and decreases contamination within the recycling stream. With the projected number of 4,706 households being served, the town would eliminate over 244,712 plastic bags from the waste stream annually (one bag/household/week). Using The Recycling Partnership's Community Tonnage Calculator, the Town of Black Mountain would recover an estimated 255 pounds of recyclables per household annually if there was a switch to recycling carts.

Additionally, to purchase recycling carts, the Town of Black Mountain is applying for grant funding through The Recycling Partnership.

The Town of Black Mountain will seek assistance from Buncombe County, The Recycling Partnership and The Division of Environmental Assistance and Customer Service to ensure the best education and outreach materials.

The Town plans to purchase recycling carts from a recommended and well-known vendor (like TOTER) which feature a 12-year warranty and are made to last between 15-20 years.

Before cart distribution, the Town of Black Mountain will promote recycling carts at community events and train town employees to educate the public when necessary.

When the carts are delivered, they will include educational materials such as brochures and/or magnets with updated information about proper recycling techniques with a strong emphasis on eliminating bags. Our sanitation department will receive training on writing and submitting "Oops" tags to households.

The Town of Black Mountain commits to further promote proper recycling after cart delivery in practices like events, digital media and mass advertising to reduce contamination rates and grow resident's knowledge of recycling.

Additional Requirements

As a condition of both grant awards, The Town of Black Mountain will:

1. Provide monthly recycling tonnage data to DEACS and The Recycling Partnership for the year preceding and the year following the distribution of the recycling carts.
2. Purchase recycling carts that contain at least 5% recycled content and are at least 64 gallon capacity for weekly recycling collection or at least 93 gallon capacity for every-other-week collection.
3. Distribute announcement information via postcards, door hangers, or bill inserts directly to all residents to inform them that recycling carts are coming.
4. Distribute recycling educational materials to all households (such as brochures, flyers, or magnets) with the new recycling carts that include acceptable materials and how to recycle correctly.
5. Post the recycling accepted list on the town website.

Project Timeline

Date	Task
August 1st, 2023	Order carts, educate town employees and train sanitation department on cart-based curbside recycling, confirm community address list, begin public facing education and outreach.
September 1st, 2023	Deliver print media and begin distribution of carts through month
October 1st, 2023	Complete distribution of carts and outreach materials and start new program
May 1st, 2024	Submit draft of final report to DEACS
June 30th, 2024	Prepare and submit final report to DEACS

Project Budget

Project Elements	Estimated Costs				
RFID Enabled Recycling Carts – 96 Gallon (4,750 units)	$339,363				
Cart Info Packet and Postcards (Printing)	$4,800				
Advertisements and Community Events (Promotional)	$5,000				
	Total Project Cost	State Grant Award	Town of Black Mountain Cash Match	The Recycling Partnership Grant	Remaining Funds for Town of Black Mountain
Total Project Budget	**$349,163**	**$40,000**	**$8,000**	**$76,000**	**$225,163**

ROY COOPER
Governor
ELIZABETH S. BISER
Secretary
JAMIE RAGAN
Director

NORTH CAROLINA
Environmental Quality

March 14, 2023

Rechelle Ray
Town of Black Mountain
304 Black Mountain Ave
Black Mountain, NC 28711

Dear Rechelle,

We are pleased to announce that the Division of Environmental Assistance and Customer Service has decided to award your 2023 Community Waste Reduction and Recycling Grant proposal for a total of $116,000 in state grant funding. We will begin working to establish a grant contract between the Department of Environmental Quality and Black Mountain, with a target start date of July 1, 2023 and an end date of June 30, 2024.

Please note that the Department of Environmental Quality cannot reimburse any grant expenditure that is incurred before the grant contract start date. Also, grantees must make every attempt to finish their grant projects within the one-year grant contract period. Contract time extensions are possible but will only be allowed under extraordinary circumstances. Grantees who do not finish their projects by the original contract deadline risk forfeiting grant funds.

Congratulations on your successful grant proposal. If you have any questions about the grant award, please do not hesitate to contact Sandy Skolochenko at 919-707-8147 or sandy.skolochenko@ncdenr.gov.

We look forward to working with you.

Sincerely,

Sandy Skolochenko

Sandy Skolochenko
Community Waste Reduction and Recycling Grant Manager
Division of Environmental Assistance and Customer Service

Notice of Certain Reporting and Audit Requirements

A recipient or subrecipient shall comply with the all rules and reporting requirements established by statute or administrative rules found in 09 NCAC Subchapter 3M. For convenience, the requirements of 09 NCAC Subchapter 3M.0205 are set forth in this Attachment.

Reporting Thresholds.
There are three reporting thresholds established for recipients and subrecipients receiving State awards of financial assistance. The reporting thresholds are:

(1) Less than $25,000 – A recipient or subrecipient that receives, hold, uses, or expends State financial assistance in an amount less than twenty-five thousand dollars ($25,000) within its fiscal year must comply with the reporting requirements established by this Subchapter including:
  (A) A certification that State financial assistance received or held was used for the purposes for which it was awarded; and
  (B) An accounting of all State financial assistance received, held, used, or expended.

(2) $25,000 up to $500,000 -A recipient or subrecipient that receives, holds uses, or expends State financial assistance in an amount of at least twenty-five thousand ($25,000) but less than five hundred thousand dollars ($500,000) within its fiscal year must comply with the reporting requirements established by this Subchapter including:
  (A) A certification that State financial assistance received or held was used for the purposes for which it was awarded; and
  (B) An accounting of all State financial assistance received, held, used, or expended.
  (C) A description of activities and accomplishments undertaken by the recipient, including reporting on any performance measures established in the contract.

(3) Greater than $500,000 – A recipient or subrecipient that receives, holds, uses, or expends State financial assistance in the amount equal to or greater than five hundred thousand dollars ($500,000) within its fiscal year must comply with the reporting requirements established by this Subchapter including:
  (A) A certification that State financial assistance received or held was used for the purposes for which it was awarded; and
  (B) An accounting of all State financial assistance received, held, used, or expended.
  (C) A description of activities and accomplishments undertaken by the recipient, including reporting on any performance measures established in the contract.
  (D) A single or program-specific audit prepared and completed in accordance with Generally Accepted Government Auditing Standards, also known as the Yellow Book.

Other Provisions:

1. All reports shall be filed with the disbursing agency in the format and method specified by the agency no later than three (3) months after the end of the recipient's fiscal year, unless the same information is already required through more frequent reporting. Audits must be provided to the funding agency no later than nine (9) months after the end of the recipient's fiscal year.

2. Unless prohibited by law, the costs of audits made in accordance with the provisions of 09 NCAC 03M .0205 shall be allowable charges to State and Federal awards. The charges may be considered a direct cost or an allocated indirect cost, as determined in accordance with cost principles outlined in the Code of Federal Regulations, 2CFR Part 200. The cost of any audit not conducted in accordance with this Subchapter shall not be charged to State awards.

3. Notwithstanding the provisions of 09 NCAC 03M .0205, a recipient may satisfy the reporting requirements of Part (3)(D) of this Rule by submitting a copy of the report required under the federal law with respect to the same funds.

4. Agency-established reporting requirements to meet the standards set forth in this Subchapter shall be specified in each recipient's contract.

Town of Black Mountain
160 Midland Avenue • Black Mountain, North Carolina 28711
Phone (828) 419-9310 • Fax (828) 669-4204 • TDD 800-735-2962
www.townofblackmountain.org

Mayor
C. Michael Sobol

Town Council
Vice-Mayor Archie Pertiller
Council Member Alice Berry
Council Member William Christy
Council Member Doug Hay
Council Member Pam King

Town Manager
Josh M. Harrold

Town Clerk
Savannah Parrish

March 31, 2023

CONFLICT OF INTEREST POLICY

Conflict of Interest Defined:
A conflict of interest is defined as an actual or perceived interest by a (Staff Member/Board Member) in an action that results in, or has the appearance of resulting in, personal, organizational, or professional gain. A conflict of interest occurs when an Employee/Board Member has a direct or fiduciary interest in another relationship. A conflict of interest could include:

- Ownership with a member of the Town Council/Trustees or an Employee where one or the other has supervisory authority over the other or with a client who receives services.
- Employment of or by a member of the Town Council/Trustees or an Employee where one or the other has supervisory authority over the other or with a client who receives services.
- Contractual relationship with a member of the Town Council/Trustees or an Employee where one or the other has supervisory authority over the other or with a client who receives services.
- Creditor or debtor to a member of the Town Council/Trustees or an Employee where one or the other has supervisory authority over the other or with a client who receives services.
- Consultative or consumer relationship with a member of the Town Council/Trustees or an Employee where one or the other has supervisory authority over the other or with a client who receives services.

The definition of conflict of interest includes any bias or the appearance of bias in a decision-making process that would reflect a dual role played by a member of the organization or group. An example, for instance, might involve a person who is an Employee and a Board Member, or a person who is an employee and who hires family members as consultants.

Employee Responsibilities:
It is in the interest of the organization, individual staff, and Council Members to strengthen trust and confidence in each other, to expedite resolution of problems, to mitigate the effect and to minimize organizational and individual stress that can be caused by a conflict of interest.

Employees are to avoid any conflict of interest, even the appearance of a conflict of interest. This organization serves the community as a whole rather that only serving a special interest group. The appearance of a conflict of interest can cause embarrassment to the organization and jeopardize the credibility of the organization. Any conflict of interest, potential conflict of interest or the appearance of a conflict of interest is to be reported to your supervisor immediately. Employees are to maintain independence and objectivity with clients, the community, and organization. Employees are called to maintain a sense of fairness, civility, ethics, ethics and personal integrity even though law, regulation, or custom does not require them.

Acceptance of Gifts:
Employees, members of employee's immediate family, and members of the Council are prohibited from accepting gifts, money or gratuities from the following:

a. Persons receiving benefits or services from the organization;
b. Any person or organization performing or seeking to perform services under contract with the organization;
c. Persons who are otherwise in a position to benefit from the actions of any employee of the organization.

Employees may, with the prior written approval of their supervisor, receive honoraria for lectures and other such activities while on personal days, compensatory time, annual leave, or leave without pay. If the employee is acting in any official capacity, honoraria received by an employee in connection with activities relating to employment with the organization are to be paid to the organization.

Town of Black Mountain
160 Midland Avenue • Black Mountain, North Carolina 28711
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www.townofblackmountain.org

Mayor
C. Michael Sobol

Town Council
Vice-Mayor Archie Pertiller
Council Member Alice Berry
Council Member William Christy
Council Member Doug Hay
Council Member Pam King

Town Manager
Josh M. Harrold

Town Clerk
Savannah Parrish

March 31, 2023

No Overdue Tax Debts Certification

To: Office of State Budget and Management, Director and Chief Fiscal Officer

Certification:

We certify that the Town of Black Mountain has no overdue tax debts, as defined by N.C.G.S. 105-243.1, at the federal, State, or local level.

Sworn Statement:

Josh Harrold, and Tammy Holland, being duly sworn, say that we are the Town Manager and Finance Director respectively, of the Town of Black Mountain of in the State of North Carolina; and that the foregoing certification is true, accurate and complete to the best of our knowledge and was made and subscribed by us. We also acknowledge and understand that any misuse of State funds will be reported to the appropriate authorities for further action.

Town Manager

Finance Director

Sworn to and subscribed before me on the day of the date of the said certification.

SAVANNAH PARRISH NOTARY Commission Expires Oct 8, 2025 BUNCOMBE COUNTY NORTH CAROLINA

(Notary Signature and Seal)

My Commission Expires: Oct. 8, 2025

TOWN OF BLACK MOUNTAIN

AGENDA ITEM SUMMARY

SUBMITTER: Josh Harrold, *Town Manager* **MEETING DATE:** August 14, 2023

AGENDA SECTION: NEW BUSINESS **DEPARTMENT:** Planning

TITLE OF ITEM: ***Ordinance #O-23-11*** for amendments to Active Mobility Commission

SUGGESTED MOTION(S):
To approve ***Ordinance #O-23-11*** as presented [or as amended]

SUMMARY:

The Active Mobility Commission is looking to amend their ordinance to allow them to have input on already adopted and approved projects before they are implemented and to be able to seek direction from Town Council on various projects or concerns that they see or hear about from the community.

BUDGET IMPACT:

Is this expenditure approved in the current fiscal year budget? N/A

If no, describe how it will be funded. N/A

ATTACHMENTS:

Ordinance #O-23-11

ORDINANCE #O-23-11

AN ORDINANCE TO AMEND CHAPTER 2, ARTICLE III, DIVISION 8, ACTIVE MOBILITY COMMISSION, OF THE TOWN OF BLACK MOUNTAIN CODE OF ORDINANCES

WHEREAS, the Black Mountain Code of Ordinances was adopted by the Town Council on the 13th day of December, 1993, and the Black Mountain Land Use Code was adopted by the Town Council on the 11th day of January, 2010; and

NOW, THEREFORE, BE IT RESOLVED that Chapter 2, Article III, Division 8, Active Mobility Commission, of the Town of Black Mountain Code of Ordinances, be amended to the following:

DIVISION 8. – ACTIVE MOBILITY COMMISSION

Sec. 2-231. – Creation and establishment.

There is hereby established the Active Mobility Commission under the authority of G.S. 160A-146, to "Promote the orderly and efficient administration of city affairs…".

Sec. 2-232. – Purpose.

There is hereby created the Active Mobility Commission (hereinafter "Commission"). The purpose of the Commission is to advise Town Council in form of comment or recommendations as needed on matters related to active modes of transportation. While the Commission serves in an advisory capacity, the Town Council makes the final decision on transportation and development issues.

Sec. 2-233. – Membership; appointment; composition; terms; reimbursement.

(A) The Commission shall consist of seven members appointed by the Town Council. All members shall reside within the limits of the East Buncombe Fire District. When making recommendations ~~to the Town Council~~ for Commission members, the **Town Council** ~~mayor~~ will seek candidates who have the following backgrounds or experiences:
    (1) Active transportation commuting.
    (2) Recreational cycling, walking, and/or running.
    (3) Transportation planning and policy.
    (4) Transportation issues affecting children, minority, low-income, disabled, or limited-English proficiency residents.

(B) Members of the Commission shall serve terms of three years. Terms shall be staggered. Appointments shall be limited to two consecutive three-year terms, and any member who has served two consecutive three-year terms may not be reappointed until he has been off the Commission for at leas one full year. If a member of the Commission has served more than two-thirds of a full term after

being appointed to complete the term of a previous board member, his or her service during the completion of that term shall be considered a full term for purposes of determining his eligibility to serve successive subsequent terms. The Town Council may dismiss any member who misses three consecutive meetings or one-half of the meetings held in a single six-month period without good cause (such as temporary sever illness of a member or a member of such member's family or overriding but temporary business concern). Such dismissal may be considered upon **a** ~~or~~ complaint by the Commission chairperson, a member of the Commission, or on the Town Council's own motion. A member must attend 50 percent of a meeting in order to be considered in attendance for the purposes of this policy. A member of the Commission appointed by the ~~mayor or~~ Town Council may be automatically removed from said body for failure to attend at least one half of all regular and special meetings of the body held during the immediately preceding calendar year.

(C) Members of **the** Commission shall serve without compensation.

Sec. 2-234. Officers; meetings.

(a) The Commission shall elect a chairperson from among its members. It shall also selected from its members a vice chairperson and secretary, elected annually by the Commission.
(b) The Commission shall keep a record of its members' attendance and minutes of its meetings, and such record shall be a public record.
(c) A majority of the members of the Commission shall constitute a quorum, and a majority vote of those present shall be required to constitute action of the Commission. The presiding members of the Commission may vote on any matter considered by the Commission.
(d) The Commission shall hold regular meetings, the frequency of which shall be established by resolution of the Commission. Special meetings may be called by the chair to respond to time-sensitive request**s** of the Town Council as necessary.

Sec. 2-235. Staff support; liaison members.

Staff support to the Active Mobility Commission shall be provided by the planning director or his or her designee, as appropriate. One representative from the Town Council may be designated to represent the Active Mobility Commission for all town council meetings, either regularly or when the commission is considering particular projects for which Town Council deems a liaison to be necessary or helpful.

Sec. 2-236. – Functions.

(a) It shall be the function and duty of the Commission to perform the following:

Regularly review the following items as they are readied for introduction to Town Council that may impact the safety and mobility of those who travel by foot, bicycle, or other active mobility device, to ensure consistency with the established

town goals to improve and promote active transportation opportunities. These items reflect the usual tools and mechanisms used to advance Town goals and objectives:

a. Plans
b. Proposed projects
c. Policies
d. Proposed programs
e. Grant applications

(b) Shall serve as consultant to provide review and/or direction to Town Staff when planning/implementing an adopted plan containing components of active modes of transportation. This should include, but is not limited to, issues concerning:

i. Active transportation commuting
ii. Recreational cycling, walking, and/or running
iii. Transportation planning and policy
iv. **Transportation issues affecting children, minority, low-income, disables or limited-English proficiency residents**

(c) From time to time, the Town Council may request specific input from the Commission regarding the best interest for advancing active transportation.

(d) In addition to requested reports, the Commission may also submit an annual report to the Town Council once per year making recommendations for the advancement of active transportation opportunities.

(e) The Commission may offer other reports as needed for the advancement of active mobility in our community.

(f) The Commission may coordinate with town staff and council to recommend priorities for active mobility within the town in the Commission's annual report to Town Council.

(g) **The commission may bring an issue regarding bike and pedestrian needs to council by asking to be put on the agenda for a meeting. A commissioner will present a short description of the issue the commission would like to research/address and brief statement for the need to do so. The council will decide whether or not this is an issue they would like for the commission to pursue.**

(h) Other duties may include:

(1) Identify outside funding sources to support Active Mobility and inform Town staff of such sources.
(2) Maintain liaisons with groups of similar interest and intent within the region in an effort to explore opportunities for connections that expand the greenways network.
(3) Provide outreach and education activities to promote the benefits of greenways to the local population with specific activities approved by Town Council or Staff.

(4) Assist staff with maintenance and revision of the greenways master plan as needed, in coordination with the Town Council.

READ, APPROVED, AND ADOPTED by a vote of _____ to _____ this the 14th day of August 2023.

_____
C. Michael Sobol, Mayor

ATTEST:

_____
Savannah Parrish, Town Clerk

Staff Report of Proposed Changes to the Active Mobility Ordinance

Summary

The Active Mobility Commission (AMC) has proposed revisions to the establishing ordinance. The purpose of this staff report is to explain best practices, clarity for roles and responsibilities of elected officials, appointed bodies, and staff, and the implications of the proposed changes. In summary, AMC wishes to direct staff through the implementation of funded projects, serve as consultant and provide reports to Town Council on issues they wish to take up.

AMC is created by the Town Council which empowers the governing body to develop citizen advisory boards. AMC is not required by NCGS, whereas Planning Board, Board of Adjustment and Historic Preservation Commission are required by law. Citizen advisory boards are an important part of public participation and advancing the Town's established goals, however, the role of a citizen advisory board is limited.

Active transportation is thriving in Black Mountain, but it is a slow process and new projects, plans and grant opportunities happen only periodically. The Charlotte Street sidewalk and sharrow connection to EB5547A fulfill the Town's locally funded improvements for the project corridor. EB5547A and EB5547B represent more than 3 million dollars of sidewalks, bike lanes, ADA improvements, intersection upgrades, and sharrows. The Grey Eagle Bike Boulevard will be completed when final materials arrive, and contractors are available. Bike and pedestrian facilities will be included in the I-40/Blue Ridge Road interchange.

Currently the Town is advancing the Ridgecrest Connector Feasibility Study. AMC, residents, and others will be stakeholders to this study when it begins later this summer, but the actual work will be done by engineers at Kimley-Horn. There are no other active transportation grants, projects, plans or anything else for AMC to consider or provide comment on at this time, because none of these items are being considered by Town Council. AMC members will be stakeholders to the masterplan and feasibility study for the properties donated to the Town, but active mobility is a consideration, not the focus of this project.

Staff believes the current ordinance provides AMC with significant opportunity to provide comments and recommendation at the appropriate time and provides AMC with opportunities to bring items to Council and to make reports at Council's direction. The current ordinance is consistent with the appropriate function of a citizen advisory board, and consistent with how all other citizen advisory boards in Black Mountain are structured. The current ordinance maintains the appropriate authority between the staff, Town Manager and Town Council in the process of advancing active mobility efforts.

What is Active Mobility

Active transportation is human-powered mobility, such as biking, walking, or rolling. Active transportation directly replaces motor vehicle miles traveled, so these modes are effective at conserving fuel, reducing vehicle emissions, bridging the first- and last-mile gap, and improving individual and public health. Active transportation is focused on making it safe for people to use non-motorized transportation to travel between destinations. In a largely built-out, compact

urban form, active transportation improvements will be scaled to meet the appropriate conditions.

Elevate Black Mountain, the Town's comprehensive plan as well as sub-plans including Black Mountain by Bike, Greenway Master Plan and others, highlight the Town's dedication to improving opportunities for active transportation in Black Mountain.

Requested Changes

One change is the addition of recreational trails to the type of items reviewed by AMC. Changing from Greenways Commission to Active Mobility Commission was intentional. Planning staff is engaged in transportation planning and funding opportunities. Active transportation needs and recreational trails are different topics, with different interests and skillsets needed to successfully implement these projects. The Town has a Parks and Recreation Commission that is better suited to take up issues related to recreational trail development. Staff developed the AMC language after speaking with other municipalities in North Carolina to learn about the function of this type of advisory group. The current language was then revised, after many lengthy conversations and the approval of AMC members, Town Manager, and elected officials.

It is unusual for a Town the size of Black Mountain to have a freestanding Greenway or Active Mobility Commission simply because there is not constant or regular need for their services. It is more common to have a parks and recreation commission/board/committee that either also encompasses greenways and active mobility issues or creates a sub-committee within the group to take up active transportation items as the need arises periodically.

The current ordinance provides AMC members with the opportunity to make an annual report to the Town Council. It also provides an opportunity for them to make reports at any point during the year if they so choose. The Town Council can also request reports from AMC if needed.

In order for an item to be put on the agenda, the request needs to be made to the Town Manager. The Town Council sets the agenda, not staff. AMC does not need to make a presentation to Council for agenda items to be considered for the agenda. In the past AMC has taken up issues without the direction of Town Council. Any requests from these conversations have been included in monthly reports from staff which are provided to the Town Manager and Town Council members. AMC has presented one annual report, consisting primarily of maintenance requests. A desire to research opportunities for new trails, sidewalk connections or other efforts is done either at the direction of Town Council in response to a specific concern, when Council has budgeted for a plan to updated or written or in the development of a report (annual or other) to Council.

The revisions to the "function" of the commission do not align with the purpose of a citizen advisory board. AMC is a stakeholder to active transportation planning efforts, but it is not a consultant. Their personal experience can help shape efforts made by the Town. This is achieved by providing comments or recommendations to the governing board and participating in

planning efforts. This is different than designing or engineering work, which is handled by professional engineers. It is also different than project administration which is handled by staff.

Citizen advisory boards and commissions do not direct staff. This is the responsibility of the Town Manager. Similarly, advisory boards and commissions do not manage projects or design aspects of projects; the Town engages engineers, land designers and other qualified professionals to bring such expertise to projects anywhere from the feasibility and design steps to the point of construction. There are many regulations and other requirements that must be met in designing active transportation facilities for the public that require professional engineers.

The Role of Citizen Advisory Committees in the Planning Process

Plans are developed with professional staff and public participation at the direction of the Council. AMC and others are stakeholders in the planning process. These plans are adopted by Council. Staff is responsible for selecting projects for implementation from these plans, while considering the competing interest of critical services, other plans, Council priorities, and extremely limited financial resources.

Projects are included by staff as proposed projects in the annual budget. If approved, staff is responsible for implementing these projects with the support of technical professionals, including a wide variety of engineers. Planning documents are conceptual; the line on the map rarely includes significant ground truthing. Staff anticipates conceptual plans being tweaked by the engineer designing the project in order to meet best practices, navigate constraints, and safety requirements. There are instances when projects will be deemed not to be feasible.

As the Town's annual budget process highlights, the Town has limited funds to pursue active mobility projects and projects can take many years to ferry though the approval process or capital funding efforts. As a result, there are few items for AMC to make comment on, simply because Town Council is not often taking up a new active transportation item.

As projects move forward, Town Council is updated in monthly reports via the Town Manager. Project updates are also made available on the Town's transportation website. AMC members do not need to hold a public meeting to receive updates on projects.

This is the same for other citizen advisory boards. For example, Planning Board meets when it has business, it does not receive updates each meeting on the implementation of the Comprehensive Plan. Planning Board provides comment or recommendation for items being prepared for Council's consideration. It is a primary stakeholder to planning efforts.

Jessica Trotman

From: Kinton, Colin <ckinton@trafficpd.com>
Sent: Tuesday, June 27, 2023 1:36 PM
To: Jessica Trotman
Subject: RE: Richardson Blvd is 38.5 feet wide in front of the post office

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Jessica,
We have reviewed the available roadway width for Richardson Blvd.
Minimum recommended requirements for travel lanes are 10 ft for each lane.
Minimum requirements for on-street parking spaces are 8 ft width (in some instances 7.5' width can be allowed but parking space length needs to be adjusted to accommodate vehicle maneuvering).

The recommended cross-section for Richardson Blvd would include 8' parking on both sides and two 11' travel lanes with marked sharrows to indicate where bikes should ride in the travel lane to avoid the door zone for a parked car. Traffic volumes and vehicle speeds are low along Richardson Blvd.

A marked bike lane for northbound Richardson Blvd is not recommended as there is insufficient space available to provide a minimum 4' wide bike lane given the parking and travel lane constraints above. In addition, it is not recommended to provide a minimum width bike lane directly adjacent to minimum width on-street parking as it would place bikes in conflict with the door zone for parked cars.

Please let me know if you have any questions.
Thank you,

Colin Kinton, P.E., *Senior Project Manager*

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OFFICES SERVING THE EASTERN UNITED STATES
O: 828.575.0133 | **D:** 828.417.3551 | **M:** 843.252.3417 | www.TrafficPD.com |

From: Jessica Trotman <jessica.trotman@tobm.org>
Sent: Monday, June 26, 2023 3:36 PM
To: Kinton, Colin <ckinton@trafficpd.com>
Subject: FW: Richardson Blvd is 38.5 feet wide in front of the post office

CAUTION: External email - do not click links or open attachments unless you recognize the sender and know the content is safe.

TOWN OF BLACK MOUNTAIN

AGENDA ITEM SUMMARY

SUBMITTER: Josh Harrold, *Town Manager* **MEETING DATE:** August 14, 2023

AGENDA SECTION: NEW BUSINESS DEPARTMENT: Administration

TITLE OF ITEM: Maintenance for Rapid Response Flashing Beacons – *Josh Harrold, Town Manager*

SUGGESTED MOTION(S):

SUMMARY: Sike Ragan plans to install a sidewalk on the north side of NC 9. According to Jesse Gardner, engineer for Sikes Ragan, NCDOT is requested the Town agree to maintain the rapid response flashing beacons for the crossing of NC 9.

BUDGET IMPACT: N/A

Is this expenditure approved in the current fiscal year budget? N/A

If no, describe how it will be funded. N/A

ATTACHMENTS: Plans and email from engineer

CHESHIRE
EAST END BLOCK H

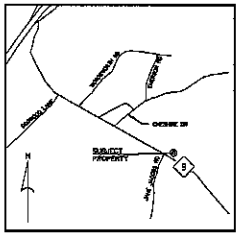
BUNCOMBE COUNTY, NORTH CAROLINA

PREPARED FOR:

C.S. RAGAN, LLC
2 E. MARKET ST.
TOWN OF BLACK MOUNTAIN, NC, 28711
SIKES RAGAN
(828) 357-8245

INDEX OF SHEETS

Sheet No.	Title
C000	COVER
C101	EXISTING CONDITIONS AND DEMO PLAN
C201	SITE PLAN
C301	GR-FD-SW PLAN
C421	SITE DETAILS
C422	SITE DETAILS
C631	ROUGH GRADING & EROSION CONTROL DETAILS
C651	STORM DETAILS
C652	STORM DETAILS
C996	NCDOT NOTES



VICINITY MAP
(NOT TO SCALE)

811
Know what's below.
Call before you dig.

DEVELOPMENT DATA

OWNER/DEVELOPER:	C.S. RAGAN, LLC 2 E. MARKET ST. TOWN OF BLACK MOUNTAIN, NC, 28711
CONTACT:	SIKES RAGAN (828) 357-8245
CIVIL ENGINEER:	CIVIL DESIGN CONCEPTS, P.A. 160 PATTON AVENUE ASHEVILLE, NC 28801
CONTACT:	BEN MUNN, P.E. (828) 252-5385

160 PATTON AVENUE
ASHEVILLE, NC 28801
PHONE (828) 252-5385
FAX (828) 252-5855

63 WALNUT STREET - SUITE B
WAYNESVILLE, NC 28786
PHONE (828) 452-5385
FAX (828) 452-5855

CDC Civil Design Concepts, PA
www.civildesignconcepts.com
NICHOLS LICENSE P.A. C-3144

NO.	DATE	DESCRIPTION	BY
1	6/19/2022	NCDOT SUBMITTAL	AJR
2	10/14/2022	NCDOT RESUBMITTAL	BRM

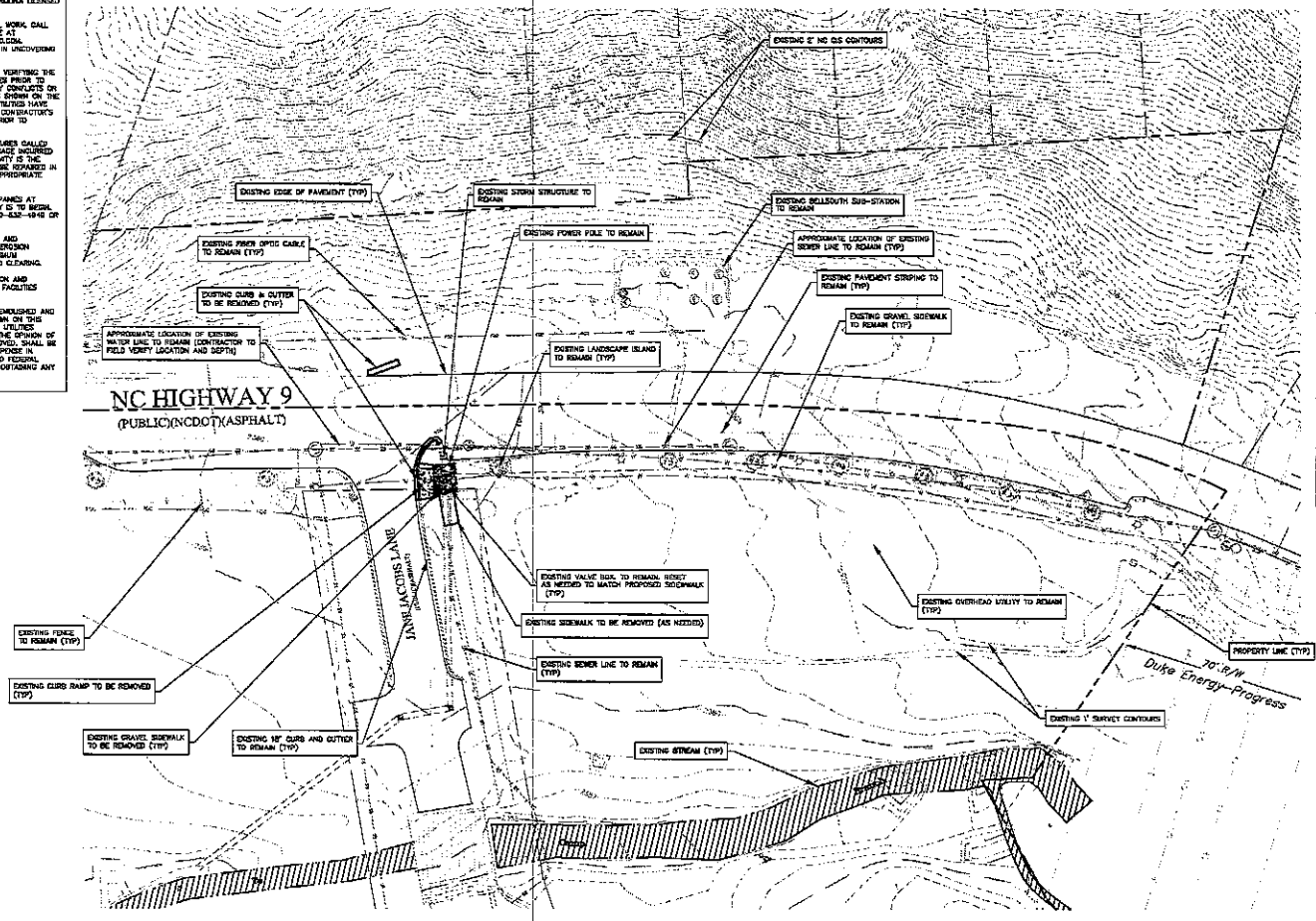
OWNER:
CHESHIRE
EAST END BLOCK H
C.S. RAGAN, LLC - BUNCOMBE COUNTY, NORTH CAROLINA

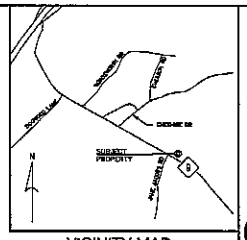
DRAWN BY: JLR
CIVIL PM / PROJECT NO.: 11388
NCDOT: TBD

SHEET
C000

NOTES

1. ALL SITEWORK SHALL BE IN ACCORDANCE WITH ALL LOCAL, STATE AND NATIONAL REGULATORY STANDARDS AND ALL REQUIREMENTS IN THE PROJECT TECHNICAL SPECIFICATIONS.
2. CONTRACTOR TO VERIFY WITH ENGINEER THAT THE REQUIRED GRADING/LAND DISTURBANCE AND ENCROACHMENT PERMITS HAVE BEEN OBTAINED PRIOR TO BEGINNING CONSTRUCTION.
3. ALL WORK MUST BE PERFORMED BY A NORTH CAROLINA LICENSED CONTRACTOR.
4. TO SCHEDULE THE REQUIRED INSPECTIONS ON ALL WORK, CALL THE CIVIL DESIGN CONCEPTS INSPECTIONS HOTLINE AT 828-771-7125, OR EMAIL AT INSPECTIONS@CDCGO.COM. FAILURE TO SCHEDULE INSPECTIONS MAY RESULT IN UNCOVERING OR REDOING WORK
5. CONTRACTOR IS RESPONSIBLE FOR LOCATING AND VERIFYING THE EXACT LOCATION AND ELEVATION FOR ALL UTILITIES PRIOR TO CONSTRUCTION, AND TO NOTIFY ENGINEER OF ANY CONFLICTS OR DISCREPANCIES. THE LOCATION OF SOME UTILITIES SHOWN ON THE PLANS HAVE BEEN APPROXIMATED. ALL BURIED UTILITIES HAVE NOT BEEN SHOWN ON THE PLANS AND IT IS THE CONTRACTOR'S RESPONSIBILITY TO DETERMINE THEIR LOCATION PRIOR TO CONSTRUCTION.
6. CONTRACTOR SHALL PROTECT EXISTING SITE FEATURES CALLED OUT TO REMAIN DURING CONSTRUCTION. ANY DAMAGE INCURRED DURING OR RESULTING FROM CONSTRUCTION ACTIVITY IS THE RESPONSIBILITY OF THE CONTRACTOR AND IS TO BE REPAIRED IN ACCORDANCE WITH APPLICABLE STANDARDS OF APPROPRIATE AGENCIES AT THE CONTRACTOR'S EXPENSE.
7. THE CONTRACTOR IS TO NOTIFY ALL UTILITY COMPANIES AT LEAST 72 HOURS BEFORE CONSTRUCTION ACTIVITY IS TO BEGIN. THE CONTRACTOR SHALL NOTIFY UUDSI AT 1-800-632-4949 OR 811, 72 HOURS BEFORE CONSTRUCTION BEGINS.
8. EROSION CONTROL IS FIELD PERFORMANCE BASED AND CONTRACTOR SHALL INSTALL AND MAINTAIN ANY EROSION CONTROL MEASURES NECESSARY TO ASSURE MAXIMUM PROTECTION OF THE SITE DURING DEMOLITION AND CLEARING.
9. CONTRACTOR TO COORDINATE TIMING OF DEMOLITION AND CONSTRUCTION WITH OWNER TO ENSURE EXISTING FACILITIES REMAIN ACCESSIBLE.
10. ALL DEBRIS, STRUCTURES AND UTILITIES TO BE DEMOLISHED AND REMOVED FROM THE PROJECT SITE ARE NOT SHOWN ON THIS PLAN. ANY ADDITIONAL DEBRIS, STRUCTURES AND UTILITIES ENCOUNTERED DURING CONSTRUCTION, WHICH IN THE OPINION OF THE ENGINEER SHOULD BE DEMOLISHED AND REMOVED, SHALL BE DISPOSED OF OFF-SITE AT THE CONTRACTORS EXPENSE IN ACCORDANCE WITH APPLICABLE LOCAL, STATE AND FEDERAL REGULATIONS. CONTRACTOR IS RESPONSIBLE FOR OBTAINING ANY REQUIRED PERMITS.





VICINITY MAP
(NOT TO SCALE)

DEVELOPMENT DATA

OWNER/DEVELOPER:	C.S. RAGAN, LLC 2 E. MARKET ST. TOWN OF BLACK MOUNTAIN, NC, 28711
CONTACT:	SKIES RAGAN (828) 357-6245
CIVIL ENGINEER:	CIVIL DESIGN CONCEPTS, P.A. 198 PATTON AVENUE ASHEVILLE, NC 28801
CONTACT:	BEN BUNN, P.E. (828) 552-0388
SURVEYOR:	HIGH COUNTRY SURVEYORS, INC 403-B WEST STATE ST. BLACK MOUNTAIN, NC 28711
CONTACT:	XXX (828) 664-0091

PROJECT DATA

PIN:	0618-40-2266
ADDRESS:	14 LANE JACOBS LANE
DEED BOOK/PAGE:	2065/23
SITE ACREAGE:	0.5 ACRES
ZONING:	TND
DISTURBED AREA:	0.2 AC
NEW IMPERVIOUS AREA INCREASE:	0.03 AC

CDC INSPECTIONS HOTLINE:
828-771-7125 OR INSPECTIONS@CDCGO.COM

811 Know what's below. Call before you dig.

NORTH

EXISTING CONDITIONS AND DEMO PLAN

GRAPHIC SCALE

(IN FEET)
1 inch = 30 ft.

CDC Civil Design Concepts, PA
198 PATTON AVENUE ASHEVILLE, NC 28801 PHONE (828) 552-0388 FAX (828) 253-3330
82 WINDING STAIRS - 101-C WAYNESVILLE, NC 28786 PHONE (828) 452-1613 FAX (828) 452-2433
www.cdcdesignconcepts.com
NC BOARD OF EXAMINERS FOR ENGINEERS & SURVEYORS P-0844

NO.	DATE	DESCRIPTION	BY
1	8/10/2022	WORK SUBMITTAL	JLR
2	10/11/2022	WORK RESUBMITTAL	DRW

EXISTING CONDITIONS AND DEMO PLAN FOR:

CHESHIRE
EAST END BLOCK H

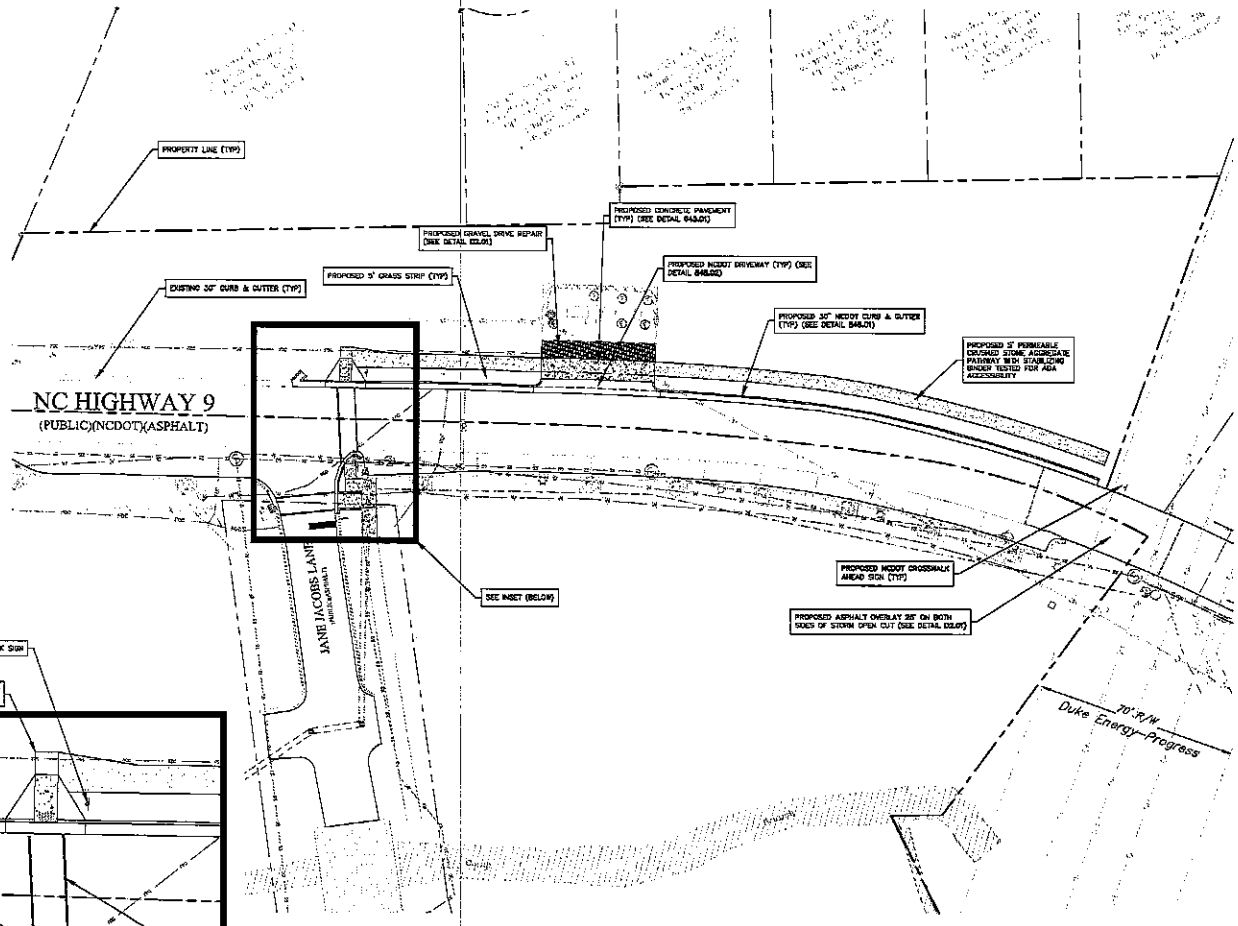
C.S. RAGAN, LLC – BUNCOMBE COUNTY, NORTH CAROLINA

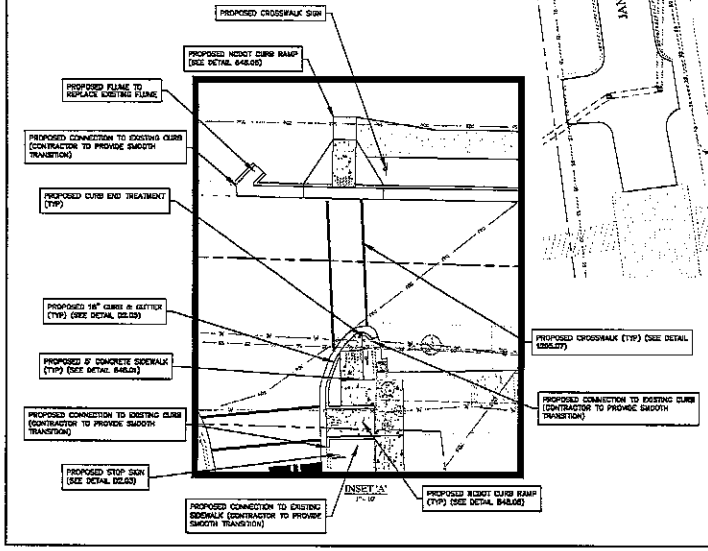
DRAWN BY:	JLR
FIELD PROJECT NO.:	11.308
SCALE:	1"=30'

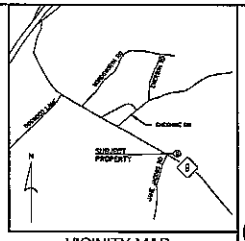
SHEET
C101

NOTES

1. ALL SITEWORK SHALL BE IN ACCORDANCE WITH ALL LOCAL, STATE, AND NATIONAL REGULATORY STANDARDS AND ALL REQUIREMENTS IN THE PROJECT TECHNICAL SPECIFICATIONS.
2. SINGLE-PHASE CONSTRUCTION.
3. ALL WORK MUST BE PERFORMED BY A NORTH CAROLINA LICENSED CONTRACTOR.
4. TO SCHEDULE THE REQUIRED INSPECTIONS ON ALL WORK, CALL THE CIVIL DESIGN CONCEPTS INSPECTIONS HOTLINE AT 828-771-4755, OR EMAIL AT INSPECTIONS@CDCCO.COM. FAILURE TO SCHEDULE INSPECTIONS MAY RESULT IN UNCOVERING OR REDOING WORK
5. CONTRACTOR IS RESPONSIBLE FOR LOCATING AND VERIFYING THE EXACT LOCATION AND ELEVATION FOR ALL UTILITIES PRIOR TO CONSTRUCTION, AND TO NOTIFY ENGINEER OF ANY CONFLICTS OR DISCREPANCIES. THE LOCATION OF SOME UTILITIES SHOWN ON THE PLANS HAVE BEEN APPROXIMATED. ALL BURIED UTILITIES HAVE NOT BEEN SHOWN ON THE PLANS AND IT IS THE CONTRACTOR'S RESPONSIBILITY TO DETERMINE THEIR LOCATION PRIOR TO CONSTRUCTION.
6. CONTRACTOR SHALL PROTECT EXISTING SITE FEATURES (SHOWN TO REMAIN) AND NEWLY COMPLETED WORK DURING CONSTRUCTION. ANY DAMAGE INCURRED DURING OR RESULTING FROM CONSTRUCTION ACTIVITY IS THE RESPONSIBILITY OF THE CONTRACTOR AND IS TO BE REPAIRED IN ACCORDANCE WITH APPLICABLE STANDARDS OF APPROPRIATE AGENCIES AT THE CONTRACTOR'S EXPENSE.
7. THE CONTRACTOR IS TO NOTIFY ALL UTILITY COMPANIES AT LEAST 72 HOURS BEFORE CONSTRUCTION ACTIVITY IS TO BEGIN. THE CONTRACTOR SHALL NOTIFY 811OCC AT 1-800-632-4949 OR 811, 72 HOURS BEFORE CONSTRUCTION BEGINS.
8. SIDEWALKS SHALL BE CONSTRUCTED IN ORDER TO PROVIDE POSITIVE DRAINAGE AWAY FROM ALL STRUCTURES. A MAXIMUM OF 5% SIDEWALK/CROSSWALK LONGITUDINAL SLOPE IS PERMITTED. A MAXIMUM OF 1/4" PER FOOT SIDEWALK/CROSSWALK CROSS SLOPE IS PERMITTED. ANY SIDEWALK/CROSSWALK INSTALLED WITH A STEEPER SLOPES SHALL BE REMOVED AND REPLACED AT CONTRACTORS EXPENSE.
9. ALL RADII LISTED ARE FROM FACE OF CURB UNLESS OTHERWISE NOTED.
10. ALL ROAD/PARKING LOT IMPROVEMENTS, STRIPING AND SIGNAGE SHALL BE IN ACCORDANCE WITH THE LATEST MANUAL ON UNIFORM TRAFFIC CONTROL DEVICE (MUTCD). CONTRACTOR MAY USE A PAINT SUITABLE FOR ASPHALT APPLICATION IN LIEU OF THERMOPLASTIC WITH PRIOR APPROVAL FROM THE ENGINEER.
11. CURB END TREATMENT TO BE APPLIED TO ALL CURB ENDS. REFER TO CURB END TREATMENT DETAIL.







VICINITY MAP
(NOT TO SCALE)

DEVELOPMENT DATA

OWNER/DEVELOPER:	C.S. RIGGINS, LLC 2 E. MARKET ST. TOWN OF BLACK MOUNTAIN, NC, 28771 SIKES RAGAN (828) 337-8245
CONTACT:	
CIVIL ENGINEER:	CIVIL DESIGN CONCEPTS, P.A. 198 PATTON AVENUE ASHEVILLE, NC 28801
CONTACT:	BEN MUNN, P.E. (828) 285-8388
SURVEYOR:	HIGH COUNTRY SURVEYORS, INC 402-B WEST STATE ST. BLACK MOUNTAIN, NC 28711
CONTACT:	XXX (828) 664-0091

PROJECT DATA

PIN:	0670-49-2265
ADDRESS:	14 JANE JACOBS LANE
DEED BOOK/PAGE:	2020/53
SITE ACREAGE:	0.5 ACRES
ZONING:	TND
DISTURBED AREA:	0.2 AC
NEW IMPERVIOUS AREA INCREASE:	0.03 AC

SITE LEGEND

- PROPERTY LINE
- EASEMENT
- RIGHT OF WAY LINE
- SAWCUT LINE
- PROPOSED SIGHT TRIANGLE
- PROPOSED NCDOT PAVEMENT
- PROPOSED PERMEABLE SIDEWALK
- PROPOSED CONCRETE DRIVE

CDC INSPECTIONS HOTLINE:
828-771-4755 OR INSPECTION@CDCCO.COM

811 Know what's below. Call before you dig.

NORTH

SITE PLAN

GRAPHIC SCALE

(IN FEET)
1 inch = 20 ft.

CDC Civil Design Concepts, PA
198 PATTON AVENUE
ASHEVILLE, NC 28801
PHONE (828) 285-8388
FAX (828) 258-2832
GENERAL CONTRACTOR LICENSE #: C-21388
www.civildesignconcepts.com

NO.	DATE	DESCRIPTION	BY
1	5/10/2022	NCDOT SUBMITTAL	JLB
2	10/14/2022	NCDOT RESUBMITTAL	BMC

SITE PLAN FOR:
CHESHIRE
EAST END BLOCK H
C.S. RIGGINS, LLC. - BUNCOMBE COUNTY, NORTH CAROLINA

DRAWN BY: JLB
CHECKED BY: BMC
SCALE: 1"=20'
JOB NO.: 11396
DATE: 10/14/2022

SHEET
C201

(No subject)

Jess Gardner <jgardner@cdcgo.com>
Tue 7/25/2023 4:18 PM
To:Josh Harrold <josh.harrold@tobm.org>
Cc:Jamey Matthews <jamey.matthews@tobm.org>;Ben Munn <BMunn@cdcgo.com>

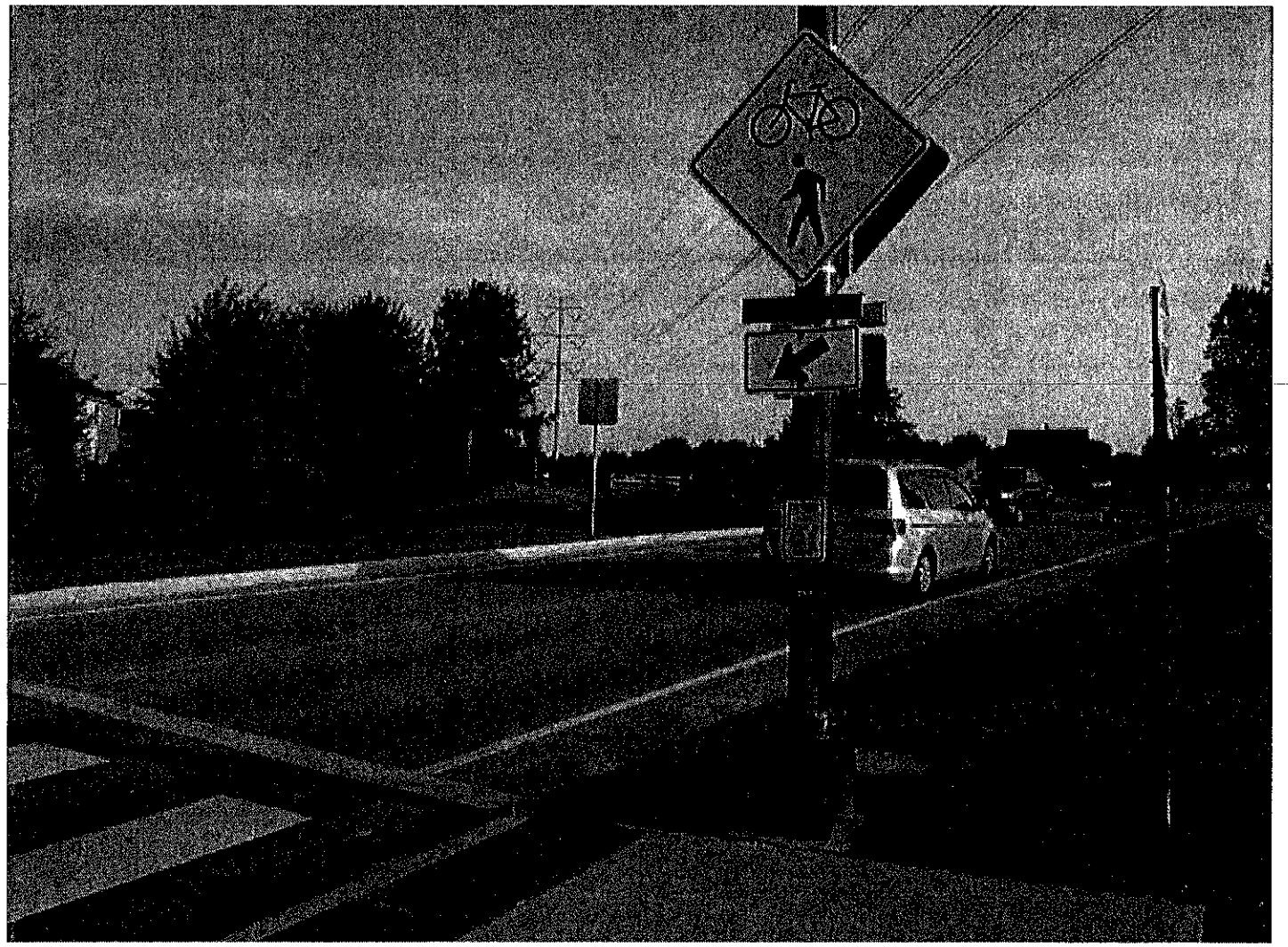
2 attachments (9 MB)
11396 NCDOT Drawings 2022-10-14.pdf; 11396 DOT Comments 2022-12-12.pdf;

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Josh/Jamey,

I am picking the attached design and permitting back up for Sikes for sidewalk along northside of NC 9. I have attached our current plans and DOT's comments. We basically can easily address their comments, however they wanted the RRFB(Rectangular Rapid Flashing Beacons) to be maintained by the Town (comment #5). Given the midblock crossing, DOT and myself thought the RRFB was the best solution. Below is a pic for reference. Would the town be willing to maintain this signage system once it is installed? Happy to discuss in more detail if you have any other specific questions on this one. This would allow us to consider sidewalk on the opposite side of NC 9 since we ran into a dead end via easements. Look forward to hearing from you and don't hesitate to buzz should you want to discuss in more detail.

Thanks,
Jesse G.



TOWN OF BLACK MOUNTAIN

AGENDA ITEM SUMMARY

SUBMITTER: Savannah Parrish, Town Clerk **MEETING DATE:** August 14, 2023

AGENDA SECTION: NEW BUSINESS **DEPARTMENT:** Administration

TITLE OF ITEM: ***Advisory Board Appointments***

SUGGESTED MOTION(S):

SUMMARY:

1. Recreation Commission – 5 applications received for two vacancies.
    a. David Galloway
    b. Kecia White
    c. Lynnae Branham
    d. Ryan Maccubbin
    e. Sally Cochran

2. Active Mobility Commission – 1 application received for two vacancies.
    a. Kristie Bergna

3. Historic Preservation Commission – 1 application received for one vacancy.
    a. Debra Norman

4. Zoning Board of Adjustment
    a. Nicole Stallings

5. Appointment of ABC Board Chair

BUDGET IMPACT:

Is this expenditure approved in the current fiscal year budget? N/A

If no, describe how it will be funded. N/A

ATTACHMENTS:
Applications

Board and Commission Application

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Name
David Galloway

Address
103 Brookhaven Drive, Black Mountain, North Carolina 28711

Do you live inside the town limits of Black Mountain?
Yes

Phone
(919) 495-1107

Email
dhgallow@gmail.com

ADVISORY BOARD/COMMISSION PREFERENCE
Recreation Commission

Are you seeking reappointment?
No

Why do you wish to serve the Town (or continue serving) in this capacity?
I believe I have unique exposure to the breadth of services and experiences provided by the Recreation Department, and can therefore provide accurate insights and feedback as to the direction the department should take. I have two school-age children, an 8th grade boy and 5th grade girl. My 8th grader has played football, basketball, and baseball the past two years for Owen Middle, and he participates in workouts with the wrestling team. My 5th grader has done Owen Warhorse Youth Cheer, Girls on the Run at BME, and the youth disc golf league through the town. My family has a plot at the community garden and my wife is active in the gardening community. I played football/basketball/baseball myself all through high school. In college I worked with the UNC football team and after college was an ACC football official for 12 years. I am currently active as a trail ultra runner and disc golf player. I have run distances from 5k to 100 miles. Professionally, I work in

Experience & Civic Involvement
Race volunteer, trail building and maintenance, community garden workdays, Girls on the Run assistant coach, PDGA member, HOA President

operations management for UPS. I am used to analyzing complicated and time-sensitive situations, and coming up with logistical solutions to problems. All this is to say, and hopefully prove, I have ground level knowledge of a whole host of recreation experiences. I would like to apply my knowledge in service to the town and its citizens.

Education & Certifications
BA History, University of North Carolina - Chapel Hill, 2008

Other Helpful Information (not required)
My wife and I are very outdoorsy, and enjoy all the wonderful opportunities available in the Swannanoa valley. We're trying our best to raise two kids to share these values with.

Signature

Date
5/17/2023

I understand that this application is a public record
Yes

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Name
Sally Cochran

Address
104-A Broadway Street, Black Mountain, North Carolina 28711

Do you live inside the town limits of Black Mountain?
Yes

Phone
(828) 545-9402

Email
sallypcochran@gmail.com

ADVISORY BOARD/COMMISSION PREFERENCE
Recreation Commission

Are you seeking reappointment?
Yes

Why do you wish to serve the Town (or continue serving) in this capacity?
My appreciation of the Town's Parks and Recreation and helping to provide a leadership role in furthering the health, utilization, safety, environmental stewardship and sustainability of our beautiful parks.

Experience & Civic Involvement
Founding member of the Black Mountain Greenways and Trails Comte. Leadership role and serving as a co-project mgr. for the Story Book Trail (GROW) at Lake Tomahawk in collaboration with the Black Mountain Library. Working with Greenways and Trails on public input forums for recreational facilities at the Town's newly acquired acreage.

Education & Certifications
Some community college courses.

Other Helpful Information (not required)

Signature

Sally Cochran

Date
5/25/2023

I understand that this application is a public record
Yes

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Name
Kecia White

Address
108 N Blue Ridge Rd, 77, Black Mountain, North Carolina 28711

Do you live inside the town limits of Black Mountain?
Yes

Phone
(828) 417-8094

Email
laessence43@ourvoices42.org

ADVISORY BOARD/COMMISSION PREFERENCE
Recreational

Are you seeking reappointment?
No

Why do you wish to serve the Town (or continue serving) in this capacity?
I'm a licensed Minister/ Business Owner and I serve on a few Buncombe County Committees. I'm dedicated to helping communities thrive through lived experience, ministry and strategic planning and development. I feel community involvement is vital in the developmental growth of a thriving town/city.

Experience & Civic Involvement
Safety Justice Collaborative Committee/ Community Engagement/Opioid Steering Committee/ Behavioral Health Justice Collaborative Committee/ Buncombe Communication &Membership Committee

Education & Certifications
Licensed Minister
NCPSS
Certified Life Coach
Certified in Mental Health
Edgecombe Comm College
Ashford University

Other Helpful Information (not required)

Signature

Date
5/15/2023

I understand that this application is a public record
Yes

Town of Black Mountain

160 Midland Avenue, Black Mountain, NC 28711
Phone (828) 419-9300 Fax (828) 669-4204
TDD 800-735-2962
www.townofblackmountain.org

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APPLICANT INFORMATION

NAME: Lynnae Branham DATE: 4/26/2023

PREFERED NAME: Lynnae

HOME ADDRESS: 1120 Montreat Rd, Unit B

MAILING ADDRESS (if different):

CITY, STATE and Zip: Black, Mountain, NC, 28711

Do you live inside the town limits of Black Mountain? Yes X No

EMAIL ADDRESS (*this is mainly how we will communicate with you*): lbranham@plicards.com

PHONE NUMBER(S): MAIN 828-275-8441 EMERGENCY 828-500-1738

ADVISORY BOARD/COMMISSION PREFERENCE

Please list the name of the board or commission to which you are applying or seeking reappointment. (You may apply for more than one, however you must submit a separate application for each board or commission you apply for.) Applicants will only be considered for one board or commission seat.

Board or Commission: Recreation Commission *Are you seeking re-appointment?* Yes No X

Why do you wish to serve the Town (or continue serving) in this capacity?
If additional space is needed please attach a separate sheet.

I moved to Black Mountain last June and I've loved it since the moment I arrived! The BM/Montreat community is unlike anything I've ever seen and I want to do my part in maintaining and preserving it's unique wonder and beauty. I also deeply care about the natural landscape and want to positively contribute to conserving the land, and I believe one of the best ways to do so is by connecting people with nature, which is one of the main goals of the Recreation Commission.

EDUCATION & CERTIFICATIONS

Please list your educational background and any certifications you have.

I have a B.S. in Environmental Science & Sustainability with a concentration in Land Management and minor in Outdoor Recreation. I also am a Certified Environmental Manager through the National Safety Association of Professionals (NASP) and a Certified Zero Waste Advisor through the Green Business Certification Inc. (GBCI).

EXPERIENCE & CIVIC INVOLVEMENT

Please describe any experience you have that would contribute to the purpose of the Board or Commission in which you are applying. Please list the names of all civic organizations in which you currently hold membership.

Founder & Programs Manager - NMU Conservation Crew, conservation organization dedicated to preserving Marquette County, MI: 2018-2020

Member - Next Generation Coalition, North Country Trail Association (NCTA), coalition aimed at increasing youth involvement with the country's largest national scenic trail: 2018-2021. Awarded "2020 Rising Star Award" for my involvement and impact on the Marquette community.

Volunteer - Michigan Clean Water Corps (MiCorp), established first ever stream monitoring program for Whetstone Brook, a small tributary to Lake Superior: 2018-2019

Intern - Marquette County Brownfield Redevelopment Authority Board: 2019

CERTIFICATE OF APPLICANT

This application is a public record.

I certify that, to the best of my knowledge and belief, the statements given truly represent my background and experience.

Lynnae Branham — Applicant's Signature

04/26/2023 — Date

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Town of Black Mountain

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APPLICANT INFORMATION

NAME: Ryan Maccubbin DATE: 5/1/2023

PREFERED NAME: Ryan

HOME ADDRESS: 534 North Fork Road

MAILING ADDRESS (if different):

CITY, STATE and Zip: Black Mountain, NC 28711

Do you live inside the town limits of Black Mountain? Yes____ No X

EMAIL ADDRESS (*this is mainly how we will communicate with you*): rtmaccubbin@gmail.com

PHONE NUMBER(S): MAIN 336.655.1589 EMERGENCY____

ADVISORY BOARD/COMMISSION PREFERENCE

Please list the name of the board or commission to which you are applying or seeking reappointment. (You may apply for more than one, however you must submit a separate application for each board or commission you apply for.) Applicants will only be considered for one board or commission seat.

Board or Commission: Recreation *Are you seeking re-appointment?* Yes____ No X

Why do you wish to serve the Town (or continue serving) in this capacity?
If additional space is needed please attach a separate sheet.

I've previously served on the Urban Foresty Commission. I enjoyed my time serving and have been looking for the opportunity to do so again. I have two elementary school children who particpate in many of the town's recreation programs. My wife and I also participate in recreation programs offered by the town. I have elderly parents who particapate when they can. I want to help ensure all town and nearby residents have a voice in shaping recreation in the area, as well as help foster partnerships in the wider community to make sure time and funds are spent wisely.

I believe I'd bring a unique perspective and back ground to helping shape policy and decision making on the commission.

EDUCATION & CERTIFICATIONS

Please list your educational background and any certifications you have.

BA - University of Mary Washington

MBA - Wake Forest University

EXPERIENCE & CIVIC INVOLVEMENT

Please describe any experience you have that would contribute to the purpose of the Board or Commission in which you are applying. Please list the names of all civic organizations in which you currently hold membership.

Leadership Asheville Graduate

Black Montain Urban Forestry Commission - Former Member

Mountain Area Residential Facilities - Board Member

Asheville City Soccer Club - Operations/Analytics

CERTIFICATE OF APPLICANT

This application is a public record.

I certify that, to the best of my knowledge and belief, the statements given truly represent my background and experience.

Applicant's Signature

5/1/2023
Date

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APPLICANT INFORMATION

NAME: Kristie Bergna DATE: 07/13/2023

PREFERED NAME: Kristie

HOME ADDRESS: 37 Winding Poplar Road

MAILING ADDRESS (if different):

CITY, STATE and Zip: Black Mountain, NC 28711

Do you live inside the town limits of Black Mountain? Yes____ No X

EMAIL ADDRESS (*this is mainly how we will communicate with you*): kbergna@gmail.com

PHONE NUMBER(S): MAIN 707-291-7805 EMERGENCY 707-291-7805

ADVISORY BOARD/COMMISSION PREFERENCE

Please list the name of the board or commission to which you are applying or seeking reappointment. (You may apply for more than one, however you must submit a separate application for each board or commission you apply for.) Applicants will only be considered for one board or commission seat.

Board or Commission: Active Mobility *Are you seeking re-appointment?* Yes____ No X

Why do you wish to serve the Town (or continue serving) in this capacity?
If additional space is needed please attach a separate sheet.

Please see attached

EDUCATION & CERTIFICATIONS

Please list your educational background and any certifications you have.

University of California, Davis 2008 Art History Major, Exercise Biology Minor

EXPERIENCE & CIVIC INVOLVEMENT

Please describe any experience you have that would contribute to the purpose of the Board or Commission in which you are applying. Please list the names of all civic organizations in which you currently hold membership.

Please see attached

CERTIFICATE OF APPLICANT

This application is a public record.

I certify that, to the best of my knowledge and belief, the statements given truly represent my background and experience.

Kristie Bergna
Applicant's Signature

7/13/23
Date

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Why do you wish to serve the town in this capacity?

My husband and I recently moved to Black Mountain in part due to the accessibility of the town by greenways and nearby outdoor activities. I'm so excited that creating more greenways is an important part of the town mission and want to be involved in the development. Due to a degenerative eye disease I have limited vision and find having non motorized pathways, sidewalks, etc to be extremely important to numerous people of different abilities. I want our town to be accessible and welcoming to as many people as possible; ranging from those with disabilities, to families with strollers, pet owners, elderly, and everyone in between.

Please describe any experience you have that would contribute to the Active Mobility Commission:

I worked in environmental engineering with a specific love for redesigning commercial and industrial areas to both serve their intended purpose and also be an outdoor space that employees could enjoy. Some projects I oversaw were: creating and designing a one mile nature trail around an industrial complex, an industrial wastewater cleaning system for water reuse in crop irrigation, and creating dry creek beds with native species plantings for stormwater management thus reducing erosion and sediment traveling into public waterways. I specifically enjoyed getting employees out in nature, involved in these projects, and excited for protecting the land around them.

As I said in the previous answer I also deal with limited mobility due to vision impairment. This means that I have a keen eye (haha, pun intended) for ways to make accessibility more broad. I'm able to notice things that those without impairment may not have needed to think about. This allows me to predict issues from the start rather than addressing issues as they arise. If issues do arise I'm very open to asking the person needing assistance for suggestions and fully understanding the scope of why something is difficult for them. I believe you can only truly know from your own experience, but the best way of helping others and learning about their lived experience is to fully listen and engage with what they are expressing.

Board and Commission Application

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Name
Debra Norman

Address
230 N. Fork Rd, Black Mountain, North Carolina 28711

Do you live inside the town limits of Black Mountain?
No

Phone
(919) 410-1363

Email
debinormannc@gmail.com

ADVISORY BOARD/COMMISSION PREFERENCE
Historic

Are you seeking reappointment?
No

Why do you wish to serve the Town (or continue serving) in this capacity?
I am all about History. We have such a beautiful, historic community; I would like to be part of preserving it.

Experience & Civic Involvement

Education & Certifications
I am a nurse

Other Helpful Information (not required)

Signature

Date
7/13/2023

I understand that this application is a public record
Yes

Town of Black Mountain

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Phone (828) 419-9300 Fax (828) 669-4204
TDD 800-735-2962
www.townofblackmountain.org

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APPLICANT INFORMATION

NAME: Nicole Dane Stallings DATE: July 12, 2023

PREFERED NAME: Nicole Stallings

HOME ADDRESS: 267 Fern Way

MAILING ADDRESS (if different): _____

CITY, STATE and Zip: Black Mountain, NC 28711

Do you live inside the town limits of Black Mountain? Yes X No _____

EMAIL ADDRESS (*this is mainly how we will communicate with you*): Stallings.NicoleD@gmail.com

PHONE NUMBER(S): MAIN 704-258-8198 EMERGENCY 919-745-0569

ADVISORY BOARD/COMMISSION PREFERENCE

Please list the name of the board or commission to which you are applying or seeking reappointment. (You may apply for more than one, however you must submit a separate application for each board or commission you apply for.) Applicants will only be considered for one board or commission seat.

Board or Commission: Zoning Board (Alternate) *Are you seeking re-appointment?* Yes _____ No X

Why do you wish to serve the Town (or continue serving) in this capacity?
If additional space is needed please attach a separate sheet.

I have lived in Black Mountain for 3.5 years. It has always been of great importance to me to be involved as much as possible in the community, whether it be improving or learning with the intent to improve. With my environmental background, I am able to identify issues with understanding and appreciation. I am always seeking to grow as a person in knowledge and skill and when I moved here, I was greeted by a warm and welcoming community and felt as though I was gifted. It really made me feel like part of a growing population of people who truly care about each other and that has been long missed by me. All this was in 2020, a time when the world was filled with so much fear and uncertainty. I appreciate being here and will continue to be involved in any way I am able.

EDUCATION & CERTIFICATIONS

Please list your educational background and any certifications you have.

BS Earth Science UNC-Charlotte

AS Aviation Management- Pilot Technology ABTech

North Carolina Certified Peer Recovery Support Specialist UNC-Chapel Hill

EXPERIENCE & CIVIC INVOLVEMENT

Please describe any experience you have that would contribute to the purpose of the Board or Commission in which you are applying. Please list the names of all civic organizations in which you currently hold membership.

When I moved here in 2020, I involved myself in Bounty and Soul regularly for 6-7 months until I began school and full-time work. I've volunteered in the gardens at both John Wilson and Christmount as well. When I started school in aviation at ABtech, I became a member of CAP which has a great presence in underserved youth as well as adult learners. Formerly, I worked with Sustain Charlotte as well as the cycling community to help organize local bike events and future routes the cyclists. I also worked with Trees Charlotte in variety of capacities. I taught violin and gave lessons to those needing extra help for auditions to better themselves. I am a classically trained violinist and amateur violist. Additionally, I worked building conservation studies on ecosystem changes for the Catawba River Blueway. This year, I am volunteering at the Sourwood Festival and am looking forward to meeting more folks now that I am able. I have also started a chamber group with Laura Williamson and Chris Nugent which will be performing at the Lakeview Center.

CERTIFICATE OF APPLICANT

This application is a public record.

I certify that, to the best of my knowledge and belief, the statements given truly represent my background and experience.

Nicole D Stallings — Applicant's Signature

July 12, 2023 — Date

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