



TOWN OF BLACK MOUNTAIN

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

Date: **November 13, 2023** Time: **6:00 p.m.**

Regular Session Agenda

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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

- Proclamation - Indigenous Peoples Heritage Month

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

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

Motion: To approve the minutes as presented or amended.

B. Budget Amendments – Tammy Holland, Finance Director

Motion: *To approve budget amendments as presented.*

**C. Stormwater Infrastructure Planning Grant Project Ordinance - Tammy Holland,
Finance Director**

Motion: *To approve budget amendments as presented.*

**D. Tomahawk Dam Capital Project Amended Ordinance - Tammy Holland, Finance
Director**

Motion: *To approve the amended capital project ordinance as presented.*

E. Monthly Property Tax Collector Report – Tammy Holland, Finance Director

Motion: *To approve the monthly tax collection report as presented.*

**F. Disaster Relief Capital Project Fund Ordinance Amendment -Tropical Storm Fred
– Tammy Holland, Finance Director**

Motion: *I move that Council approve Tropical Storm Fred Disaster Relief Capital Project Fund Ordinance Amendment and Budget Amendment as presented.*

**G. Resolution to apply for Water Sources Development Grant through North Carolina
Department of Water Quality (NCDWQ) #R-23-17 – Jessica Trotman, Planning Director**

Motion: *I move to approve Resolution #R-23-17 for staff to apply for the water sources development grant through the North Carolina Department of Water Quality in the amount of \$85,000 for the Fairway Drive Stormwater Diversion Project.*

H. Swannanoa River Floodbench Project Ordinance – Tammy Holland, Finance Director

Motion: *I move that Council approve the Swannanoa River Floodbench Capital Project Ordinance as presented.*

Consent Motion: *To Approve Items A-H as presented.*

6. 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 Fee Schedule **#O-23-18** – Jessica Trotman, Planning Director

Suggested Motions:

To open the public hearing.

To close the public hearing.

*I move that we adopt **Ordinance #O-23-18** to amend the fee schedule to add subcategories for floodplain development permits, adding a fee for working without a permit, increasing the fee for demolition permits, correcting ABC inspection fees, reinspection fees, and mechanical changeout fees.*

- B. Public Hearing for Conditional Zoning Request for Montreat College **#O-23-22**

Suggested Motions:

1. To open the public hearing for **Ordinance #O-23-22** for conditional zoning request for Montreat College.
2. To close the public hearing.
3. To adopt **Ordinance #O-23-22** (statement of consistency included) as presented [or as amended] with the following motion:

I move that we approve text amendment #O-23-22 to add Montreat College Black Mountain campus as an institutional campus district conditional zone and that the amendment is consistent with the comprehensive plan and is reasonable and in the public interest in that it promotes development of underutilized property with existing infrastructure and allows design and connection to balance the needs of pedestrians, drivers, cyclists, and transit users.

- C. Public Hearing for Map Amendment for Montreat College **#Z-O-23-23**

Suggested Motions:

4. To open the public hearing for **Zoning Ordinance #Z-O-23-23** for a map amendment for the institutional campus district.
5. To close the public hearing.
6. To adopt **Zoning Ordinance #Z-O-23-23** (state of reasonableness included) as presented [or as amended] with the following motion:

I move that we approve zoning map amendment #Z-O-23-23 to conditionally zone the Montreat College Black Mountain campus as institutional campus district conditional zone and that the zoning map amendment is reasonable and in the public interest in that the overall size of the tract is reasonable compared to the size of the zoning district in which the property is located, it is consistent with the comprehensive plan, the impact to adjacent property owners is reasonable and the benefits of the rezoning outweigh any potential

inconvenience or harm to the community and allowed uses within the proposed rezoning district are similar to the permitted uses as currently zoned.

7. 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.*

8. UNFINISHED BUSINESS

A. Dugout Replacement at Veteran's Park

9. NEW BUSINESS

A. Montreat College Development Agreement Presentation – Jessica Trotman, Planning Director

B. Amendments to Chapter 8, Section 8.2, Phase II Stormwater Ordinance #O-23-21
– Jessica Trotman, Planning Director

Motion: *I move that we approve **Ordinance #O-23-21** to amend Chapter 8, Section 8.2, for Phase II Stormwater ordinance.*

C. Art in the Afternoon Building Renovation – Josh Henderson, Parks and Recreation Director

Motion: *To approve the renovation as presented.*

D. Duke Progress Easement – Josh Harrold, Town Manager

Motion: *To follow the staff recommendation for Duke Progress to use the existing sidewalk for guy wire and not extend guy wire into Town Square.*

E. Library Lease (one -year) – Josh Harrold, Town Manager

Motion: *To approve the one-year library lease as presented.*

F. Lakeview Center Rental Deposit Increase – Josh Henderson, Parks and Recreation Director

Motion: *To approve the Lakeview Center Rental Deposit Increase as presented.*

G. Authorization to sell fire apparatus - 1984 GMC Brigadier - John Coffey, Fire Chief

Motion: *To authorize the sell of the 1984 GMC Brigadier as presented.*

**H. Black Mountain Fire Department ISO Inspection Rating Results – John Coffey,
Fire Chief**

10. COMMUNICATION

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

11. COMMUNICATION FROM MAYOR AND TOWN COUNCIL

12. CLOSED SESSION

A. Closed Session

Motion: *To enter into closed session as allowed by North Carolina General Statute 143-318.11 (a)(6) to consider the performance of an individual public officer and as allowed by North Carolina General Statute 143-318.11(a)(5) in reference to acquisition of real property.*

13. ADJOURNMENT



PROCLAMATION INDIGENOUS PEOPLES HERITAGE MONTH

WHEREAS, Native American Heritage Month, also known as Indigenous Peoples Heritage Month, honors and celebrates the important history and heritage of tribal communities across the state who have lived in geographic area of North Carolina for more than 12,000 years; and

WHEREAS, North Carolina is home to eight state recognized tribes: the Eastern Band of Cherokee, Coharie, Lumbee Tribe of North Carolina, Haliwa-Saponi, Sappony, Meherrin, Occaneechi Band of the Saponi Nation, and the Waccamaw-Siouan; and

WHEREAS, in 1990, Congress passed, and President George H. W. Bush signed into law, a joint resolution designating the month of November as the first National American Indian Heritage Month, now known as Native American Heritage Month, or Indigenous Peoples Heritage Month; and

WHEREAS, according to the 2020 U.S. Census Bureau, more than 130,000 American Indians reside in North Carolina, making it the second largest American Indian population east of the Mississippi River and the seventh largest American Indian population in the nation; and

WHEREAS, the Town of Black Mountain recognizes Indigenous people have lived upon this land since time immemorial and values the progress our society has accomplished through the contributions of the Indigenous peoples' culture; and

WHEREAS, the Town of Black Mountain wishes to recognize, celebrate and honor Indigenous people and wishes to preserve and promote the history and culture of all Indigenous people.

NOW, THEREFORE, be it proclaimed by the Black Mountain Town Council that the month of November 2023 be proclaimed Indigenous Peoples' Heritage Month in the Town of Black Mountain. We encourage continued recognition, appreciation and celebration of our goodwill and friendship with our local Indigenous People. We encourage community members, schools, businesses, public and private organizations, and other community partners to join communities across America in recognizing and educating themselves on the contributions of our Indigenous communities.

Proclaimed this, the 13th day of November 2023.

C. Michael Sobol, Mayor

Attest:

Wesley M. Barker, Town Clerk



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Tammy Holland, *Finance Director* **MEETING DATE:** November 13, 2023

AGENDA SECTION: Consent **DEPARTMENT:** Finance

TITLE OF ITEM: Budget Amendment – *Tammy Holland, Finance Director*

SUGGESTED MOTION(S): I move to approve budget amendments as presented.

SUMMARY:

Proposed amendments to the FY23-24 Budget. Budget amendments BA67-BA87 for the following

• <u>Fire Department Rescue Boat</u>	<u>\$21,000</u>
• <u>Police Department Loan Proceeds – Cars</u>	<u>\$200,000</u>
• <u>Fire Truck Purchase –</u>	<u>\$710,000</u>
• <u>Police Department – Insurance Claim</u>	<u>\$46,000</u>
• <u>Police Department – Kiwanis Grant</u>	<u>\$1,900</u>
• <u>Tomahawk Dam – Increase funding</u>	<u>\$173,000</u>
• <u>Carver Center Repairs -</u>	<u>\$4,900</u>
• <u>Streamflow Rehabilitation Grant Award-</u>	<u>\$71,816</u>
• <u>Stormwater Infrastructure Grant -</u>	<u>\$400,000</u>
• <u>State Feasibility Study Grant -</u>	<u>\$50,000</u>
• <u>OSHA Pool Repairs -</u>	<u>\$17,900</u>
• <u>Dugout Replacement -</u>	<u>\$189,000</u>
• <u>Water Department – Blue Ridge Rd Water Tie-In</u>	<u>\$33,000</u>

ATTACHMENTS:

Green = Revenue

Red = Fund Balance Use

i. Budget Amendments Detailed Report

BUDGET AMENDMENTS

Adjustment Number	Description	Summary	Account Number	Account Name	Total Amount
BA0000067	Rescue Boad - Budgeted within prior Fiscal Year	Budgeted for in prioir Year. Boat was not shipped from Vendor until FY24	200-0000-48900	Appropriated Fund Balance	-\$21,000.00
			200-4520-57411	Capital Outlay-Motorized Equipment	\$21,000.00
BA0000068	Police Vehicles - Debt Proceeds	Recognize Loan Proceeds for funds needed to Purchase and upfit 3 police Vehicles	100-4510-48025	Debt Proceeds	-\$200,000.00
			100-4510-57410	Capital Outlay-Vehicles	\$200,000.00
BA0000069	Fire Truck Purchase	Amendment for Fire Truck Purchase Approved by Board. Transfer 300,000 from Capital Project Reserve Fund, Appropriate 10,000 Fund Balance from Fire Unreserved Fund Balance. Recognize Loan Proceeds for remaining 400,000 needed to fund Fire Truck Purchase	200-0000-48025	Debt Proceeds	-\$400,000.00
			200-0000-48900	Appropriated Fund Balance	-\$10,000.00
			200-4520-57410	Capital Outlay-Vehicles	\$710,000.00
			200-7000-48590	Transfers In	-\$300,000.00
			405-0000-48900	Appropriated Fund Balance	-\$300,000.00
			405-7000-59510	Transfer Out	\$300,000.00
BA0000070	Insurance Claim PD 22 Durango	Recognize Insurance Proceeds for Police Department 2022 Dodge Durango	100-0000-48010	Insurance Recovery Proceeds	-\$46,000.00
			100-4510-57410	Capital Outlay-Vehicles	\$46,000.00
BA0000071	Kiwanis Grant	23-24 Grant funding from Kiwanis for children and families of the Swannanoa Valley.	235-0000-43400	Grant Revenues- Nongovernmental	-\$1,900.00
			235-4510-55023	Community Outreach/Public Relations	\$1,900.00
BA0000075	Tomahawk Dam Amendment for Construction and Design	Increase funding due to new estimates for repairs	400-8005-48590	Transfers In	-\$173,000.00
			400-8005-52012	Professional Services-Engineering and Design	\$75,000.00
			400-8005-57610	Capital Outlay - Street/Bridge/Sidewalk/Greenwa	\$98,000.00
BA0000076	Tomahawk Dam Budget Amendment	Increase funding due to new estimates for repairs	100-0000-48900	Appropriated Fund Balance	-\$173,000.00
			100-7000-59510	Transfer Out	\$173,000.00
BA0000080	Carver Center repairs	Carver Center Repairs 1900 flooring due to flooding, 3000 fridge evaporator replacing	100-0000-48900	Appropriated Fund Balance	-\$4,900.00
			100-4090-52310	R & M - Buildings	\$1,900.00
			100-4090-52315	R & M - Equipment	\$3,000.00
BA0000081	Streamflow Rehabilitation Grant Award	Award fo StRAP Grant Award for stream debris removal along the Swannanoa River	260-8801-43200	Grant Revenue - State	-\$71,816.00
			260-8801-52020	Contract Labor Services	\$71,816.00
BA0000082	Black Mountain Stormwater Infrastructure Grant	SRP-SW-ARP-0055 Stormwater Infrastructure Planning Project - ARPA funding through LASII no match up to 400,000	260-8802-43100	Grant Revenue - Federal	-\$400,000.00
			260-8802-52012	Professional Services-Engineering and Design	\$400,000.00
BA0000084	State Grant Feasibility Study	Grant to conduct feasiblity studies and Site plan for recently acquired properties	210-0000-43200	Grant Revenue - State	-\$50,000.00
			210-4810-52016	Professional Services - Studies and Consultations	\$50,000.00

BUDGET AMENDMENTS

BA0000085	Pool repairs required by OSHA	Repairs Required by OSHA Pump and Valves repair 13800			
		Pool House Flooring 4100	100-0000-48900	Appropriated Fund Balance	-\$17,900.00
			100-4710-52310	R & M - Buildings	\$4,100.00
			100-4710-52315	R & M - Equipment	\$13,800.00
BA0000086	Dugout Replacement	Dugout replacement per board - fencing replacement,			
		installation of concrete pads, roof replacement, backstop			
		fencing and netting replacement for 8 fields	100-0000-48900	Appropriated Fund Balance	-\$189,000.00
			100-4715-57210	Capital Outlay - Land Improvements	\$189,000.00
BA0000087	Blue Ridge Road Water Line Tie In	Tie In on Blue Ridge Road of Water Line	600-0000-48900	Appropriated Fund Balance	-\$33,000.00
			600-5000-57615	Capital Outlay - Dist Lines and Connections	\$33,000.00
Grand Total					\$0.00



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Tammy Holland, *Finance Director* **MEETING DATE:** November 13, 2023

AGENDA SECTION: CONSENT AGENDA **DEPARTMENT:** Finance

TITLE OF ITEM: Stormwater Infrastructure Planning Grant Project Ordinance

SUGGESTED MOTION(S):

Staff move that Council approve the Stormwater Infrastructure Planning Grant Project Ordinance as presented.

SUMMARY:

Authorizing Grant Project Stormwater Infrastructure Planning, State Project Number SRP-SW-ARP-0055. This Funding has been approved by the State Water Infrastructure Authority (SWIA). The Local Assistance for Stormwater Infrastructure Investments (LASII) grant from the American Rescue Plan Act (ARPA), CFDA Number 21.027, grant will reimburse one hundred percent of eligible costs. Project must be completed by December 31, 2026. The town has been approved for Grant funding up to a maximum of \$400,000 (400 thousand) dollars. Project funded through the ARPA state grant program are subject to applicable federal uniform guidance and law.

The Town is authorizing and budgeting for the \$400,000 of funds to be received and expenditures incurred for the Stormwater Infrastructure Planning Project. Grant Funding provided under the Local Assistance for Stormwater Infrastructure Investments (LASII) grant from the American Rescue Plan Act (ARPA)

260-8802-43100	Grant Revenue – Federal	Increase	\$400,000
260-8802-52012	Professional Services Engineering and Design	Increase	\$400,000

BUDGET IMPACT: Increase in budgeted funds and Expenditures of \$400,000.

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

If no, describe how it will be funded. Grant Funding

ATTACHMENTS:

- i. Ordinance



**Town of Black Mountain
Stormwater Infrastructure Planning
Project Number SRP-SW-ARP-0055
Grant Project Fund Ordinance**

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

Section 1. Authorizing Grant Project Stormwater Infrastructure Planning State Project Number SRP-SW-ARP-0055. This Funding has been approved by the State Water Infrastructure Authority (SWIA). The Local Assistance for Stormwater Infrastructure Investments (LASII) grant from the American Rescue Plan Act (ARPA), CFDA Number 21.027, grant will reimburse one hundred percent of eligible costs.

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

Section 3. The following anticipated Revenues are hereby adopted:

Stormwater Infrastructure Planning Grant- Revenue	
<u>Account</u>	<u>Funding</u>
260-8802-43100 Grant Revenue-Federal	\$400,000.00
Total Funds	\$400,000.00

Section 4. The following anticipated appropriations are hereby adopted:

Stormwater Infrastructure Planning Grant - Expenses	
<u>Account</u>	<u>Anticipated Expense</u>
260-8802-52012 Professional Services-Eng & Design	\$400,000.00
Total Expenses	\$400,000.00

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



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

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

Duly adopted this 13th day of November 2023.

C. Michael Sobol
Mayor

ATTEST:

Savannah Parrish
Town Clerk



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Tammy Holland, *Finance Director* **MEETING DATE:** November 13, 2023

AGENDA SECTION: CONSENT AGENDA **DEPARTMENT:** Finance

TITLE OF ITEM: Tomahawk Dam Capital Project Amended Ordinance

SUGGESTED MOTION(S):

Staff move that Council approve the Tomahawk Dam Capital Project Amended Ordinance as presented.

SUMMARY:

Lake Tomahawk Dam is an earthen dam in Black Mountain, North Carolina located along the southern edge of Lake Tomahawk and is classified as a High Hazard Dam. Minor seepage is now occurring following the removal of trees on the embankment in 2014. The Town intends to repair the Dam as approved by North Carolina Dam Safety through repairs consisting of erosion and sediment control, toe drain and blanket drain construction, articulating concrete block overtopping protection, and earthworks construction to protect area citizens and to prevent a future disaster. The amended ordinance is authorizing Capital Project Tomahawk Dam Amended Revenue and Expenses.

BUDGET IMPACT: Increase in budgeted funds and Expenditures of \$173,000.

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

If no, describe how it will be funded. Appropriated Fund Balance

ATTACHMENTS:

- i. Amended Ordinance



Town of Black Mountain Tomahawk Dam Repairs Capital Project Fund Ordinance Amendment

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

Section 1. Authorizing Capital Project Tomahawk Dam Repairs Capital Project Fund Amendment. Additional funding required for repairs needed per NC Dam Safety.

Section 2: The Town of Black Mountain defines a "Capital project" as a project financed in whole or in part by the proceeds of bonds, notes or debt instruments or a project involving the construction or acquisition of a capital asset with expenditures that span across multiple fiscal years.

Section 3: The officers of this unit are hereby directed to proceed with the capital project within the terms of the grant documents, and the budget contained herein.

Section 4. The following anticipated Revenues are hereby adopted:

Tomahawk Dam Repair - Revenue			
<u>Project</u>	<u>Prior Authorized</u>	<u>Change</u>	<u>Amended Funding</u>
400-8005-48590 Transfer In	\$578,886.65	\$173,000.00	\$751,886.65
Total Funds	\$578,886.65	\$173,000.00	\$751,886.65

Section 5 The following anticipated appropriations are hereby adopted:

Tomahawk Dam Repair - Expenses			
<u>Project</u>	<u>Prior Anticipated</u>	<u>Change</u>	<u>Amended Expense</u>
400-8005-52012 Professional Services - Engineering	\$578,886.65	\$75,000.00	\$653,886.65
400-8005-57610 Capital Outlay - Infrastructure	\$0.00	\$98,000.00	\$98,000.00
Total Expenses	\$578,886.65	\$173,000.00	\$751,886.65



Section 6. The Finance Director is hereby directed to maintain within the Capital Project Fund sufficient specific detailed accounting records to satisfy the disclosure requirements of all the contractual agreements, if applicable.

Section 7. Copies of this Capital Project Ordinance shall be furnished to the Town Clerk, the Town Manager and the Finance Director for the direction in carrying out this project.

Section 8. Authorized project expenditures represent appropriations necessary for the completion of projects and therefore do not require re-appropriation in any subsequent fiscal year. However, per G.S. 159-13.2 information on project ordinances will be included in the annual budget. Each year the finance officer shall include in the budget, information in such detail as he or the governing board may require concerning each grant project or capital project. This information will be detailed for any new project funds expected to be authorized by project ordinance during the budget year and also include information on projects authorized by previously adopted project ordinances which have remaining appropriations available for expenditure during the budget year.

Duly adopted this 13th day of November 2023.

C. Michael Sobol
Mayor

ATTEST:

Savannah Parrish
Town Clerk



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Tammy Holland, *Finance Director* **MEETING DATE:** November 13, 2023

AGENDA SECTION: Consent Agenda

DEPARTMENT: Finance

TITLE OF ITEM: Monthly Property Tax Collector Report

SUGGESTED MOTION(S):

Approval of the Monthly Tax Collector Report

SUMMARY:

Monthly Property Tax Collector Report

Pursuant to N.C.G.S. § 105-350(7), it is the duty of the tax collector to submit to the governing body at each of its regular meetings a report of the amount collected on each year's taxes with which is charged, the amount remaining uncollected, and the steps taken to encourage or enforce payment of uncollected taxes.

Per NCGS 105-381(b) the governing body must approve or deny requests for refunds or releases.

Below is the month end report for collections, refunds, and releases (current and prior years), provided by the Buncombe County Tax Collector. The tax department is using all collection remedies as provided by general statute to collect delinquent taxes.

ATTACHMENTS:

- i. Monthly Tax Collector Report



TOWN OF BLACK MOUNTAIN TAX COLLECTOR'S REPORT

TO: Black Mountain Board of Commissioners
FROM: Cortney Kidd, Municipal Tax Collector
DATE: Monday, November 13, 2023
SUBJECT: September 2023 Tax Collector Report

According to GS 105-350(7) it is the duty of the tax collector to submit to the governing body at each of its regular meetings a report of the amount collected on each year's taxes with which is charged, the amount remaining uncollected, and the steps taken to encourage or enforce payment of uncollected taxes.

Below is the month end report for collections (current and prior years), provided by the Buncombe County Tax Collector. The tax department is using all collection remedies as provided by general statute to collect delinquent taxes including but not limited to garnishments, attachments, and NC Debt Setoff.

CURRENT YEAR TAX -ALL TAXES, LIENS, LATE LIST PENALTIES, INTEREST AND FEES

Billed	\$ 5,145,886.69
Collected	\$ 579,955.48
Adjustments and Releases	\$ (6,799.03)
Outstanding real and personal property taxes	<u>\$ 4,559,132.18</u>

TAX COLLECTION PERCENTAGE FOR CURRENT TAX YEAR

11.29%

PRIOR YEAR TAXE(S) COLLECTED WITHIN THE MONTH

Collected	\$ 1,025.25
Adjustments and Releases	\$ (5.76)

Per NCGS 105-381(b) the Tax Collector is reporting tax refunds within the current period:

Ad Valorem	\$ -
Motor Vehicle	\$ 33.98



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Tammy Holland, *Finance Director* **MEETING DATE:** November 13, 2023
AGENDA SECTION: CONSENT **DEPARTMENT:** Finance
TITLE OF ITEM: Disaster Relief Capital Project Fund Ordinance Amendment -Tropical Storm Fred

SUGGESTED MOTION(S):

I move that Council approve Tropical Storm Fred Disaster Relief Capital Project Fund Ordinance Amendment and Budget Amendment as presented.

SUMMARY:

On January 9, 2023, The Town Board authorized the establishment of a capital project fund for FEMA assistance related damage to several properties owned by the Town of Black Mountain due to Tropical Storm Fred. Additional funding has been made available through NC Department of Public Safety. The Town has been awarded the following additional amounts to assist with the damage repairs related to Tropical Storm Fred:

Public Golf Course Bridge	\$14,041.86
Veteran's Park Stream Restoration	<u>\$285,958.14</u>
Total Additional Grant Funds	\$300,000.00

BUDGET IMPACT: Based on NC General Statute 159-13.2 the Town is authorizing and budgeting for the Tropical Storm Fred Disaster Recovery Capital Project with the approval of this Amended Capital Project Fund Ordinance.

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

If no, describe how it will be funded. NC Department of Public Safety Grant

ATTACHMENTS:

- i. Ordinance and Budget amendment



Town of Black Mountain Tropical Storm Fred Disaster Relief Capital Project Fund Ordinance Amendment

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

Section 1. Authorizing Capital Project Tropical Storm Fred Disaster Relief. Funding provided by FEMA and State Grant 4617 Tropical Storm Fred, CFDA 97.036. Additional Funding has been provided by the NC Department of Public Safety for unmet needs not funded by FEMA's public assistance program.

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

Section 3. The following anticipated Revenues are hereby adopted:

Tropical Storm Fred Disaster Relief- Grant Project Funds Awarded			
<u>Project</u>	<u>Prior Authorized</u>	<u>Change</u>	<u>Amended Funding</u>
436912- Veteran's Park River Restoration Damage	\$163,950.00	\$285,958.14	\$449,908.14
647039-Management Costs	\$11,100.41		\$11,100.41
436911-Golf Cart Bridge	\$6,958.14	\$14,041.86	\$21,000.00
436908-Flat Creek Greenway	\$51,100.00		\$51,100.00
Total Funds	\$233,108.55	\$300,000.00	\$533,108.55

Section 4. The following anticipated appropriations are hereby adopted:

Tropical Storm Fred Disaster Relief- Expenses			
<u>Project</u>	<u>Prior Anticipated</u>	<u>Change</u>	<u>Amended Expense</u>
436912- Veteran's Park River Restoration Damage	\$163,950.00	\$285,958.14	\$449,908.14
647039-Management Costs	\$11,100.41		\$11,100.41
436911-Golf Cart Bridge	\$6,958.14	\$14,041.86	\$21,000.00
436908-Flat Creek Greenway	\$51,100.00		\$51,100.00
Total Expenses	\$233,108.55	\$300,000.00	\$533,108.55



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

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

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

Duly adopted this 13th day of November 2023.

C. Michael Sobol
Mayor

ATTEST:

Savannah Parrish
Town Clerk

1st Qtr = Oct. - Dec.

2nd Qtr = Jan. - Mar.

X

QUARTERLY REPORT STATUS

TS FRED UNMET NEEDS PA

3rd Qtr = Apr. - June

4th Qtr = July - Sept.

APPLICANT: Town of Black Mountain			MOA #	MOA AMOUNT		\$300,000	
POINT OF CONTACT		TITLE	WORK PHONE #	CELL PHONE #	EMAIL ADDRESS		
Josh Harrold		Town Manager	828-419-9300		josh.harrold@tobm.org		
Cat A: Debris			Cat C: Roads & Bridges		Cat F: Utilities		
Cat B: Emergency Protective Measures			Cat D: Water Control Facilities		Cat G: Park, Recreation & Other Facilities		
			Cat E: Buildings / Equipment				
PROJECT #	CATEGORY OF WORK	DESCRIPTION OF DAMAGE / SERVICES			ADDRESS	LAT.	LONG.
1	G	TS Fred tore out one of the bridges on the public golf course. Streambank also eroded and will need repair before the bridge can be replaced. Total cost of bridge is \$21,000. FEMA has reimbursed \$6,958.14 to replace the bridge. Cost remaining for this project is \$14,041.86			17 Ross Drive, Black Mountain, NC 28711	35.6263007	-82.3337864
LABOR		EQUIPMENT	MATERIALS		CONTRACT	RENTAL EQUIP.	
AMOUNT REQUESTED		ACTUAL COST TO DATE		ESTIMATED REMAINING COSTS		TOTAL COST OF PROJECT	
\$14,041.86		\$14,041.86				\$14,041.86	
COMMENTS / NOTES							
Submitted for reimbursement							

PROJECT #	CATEGORY OF WORK	DESCRIPTION OF DAMAGE / SERVICES	ADDRESS	LAT.	LONG.
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2	G	Tropical Storm Fred produced heavy rainfall in Black Mountain resulting in considerable damage in parts of the town. Prior to the storms arrival, the town contracted with a construction firm to perform stream restoration work on a section of the Swannanoa River (approximately 1,700 linear feet) that flows through the town owned park. Much of the stream restoration work had been completed when the flooding occurred. The flooding event destroyed much of the work. Total Estimated Cost is \$344,163.33.			10 Veteran's Park Drive, Black Mountain, NC 28711	35.60917	-82.33575
LABOR		EQUIPMENT		MATERIALS	CONTRACT	RENTAL EQUIP.	
AMOUNT REQUESTED		ACTUAL COST TO DATE		ESTIMATED REMAINING COSTS		TOTAL COST OF PROJECT	
\$285,958.14				\$285,958.14			
COMMENTS / NOTES							

SITE #	CATEGORY OF WORK	DESCRIPTION OF DAMAGE / SERVICES			ADDRESS	LAT.	LONG.
LABOR		EQUIPMENT		MATERIALS	CONTRACT	RENTAL EQUIP.	
AMOUNT REQUESTED		ACTUAL COST TO DATE		ESTIMATED REMAINING COSTS		TOTAL COST OF PROJECT	
COMMENTS / NOTES							

Angela Rene
SIGNATURE

Project 3 Facilities Manager
TITLE

5/17/2023
DATE

North Carolina Department of Public Safety

Agreement Name: TS Fred Unmet Needs PA Town of Black Mountain

This Agreement is hereby entered into by and between the Department of Public Safety (the "AGENCY") and the **Town of Black Mountain** (the "RECIPIENT") (referred to collectively as the "Parties"). The RECIPIENT's federal tax identification number is **56-6001182**.

1. EFFECTIVE TERM

This agreement shall be effective starting November 18, 2021 and this agreement shall terminate on June 30, 2024.

2. RECIPIENT'S DUTIES

The RECIPIENT shall provide the services as described below:

The RECIPIENT is authorized to use funds by this agreement for unmet needs projects not funded by FEMA's public assistance program as directed by NC General Assembly in Session Law 2021-108.(House Bill-105).

The RECIPIENT's scope of work is a complete and concise scope of goods or services supported by this agreement and consistent with language in Session Law 2021-180. See Attachment A.

The RECIPIENT agrees to use the funds in the amounts allocated for the budget cost items set forth in the RECIPIENT's Budget. RECIPIENT may reallocate and/or redistribute among budgeted items up to 10% in overall budget costs without the express written permission of the AGENCY. RECIPIENT agrees that it will not reallocate and/or redistribute any overall budget costs that will exceed 10% on any annual basis without first obtaining the express authorization of the AGENCY in writing.

The RECIPIENT understands and acknowledges that total funding level available under this agreement will not exceed **\$300,000.00**. Attachment A provides scope of work and payment amounts to be paid to RECIPIENT. RECIPIENT agrees to complete all sections of the Quarterly or Periodic Status Report & Accounting (Attachment B) following each quarter, and provide all supporting documentation when the quarterly Accounting is submitted.

Pursuant to N.C.G.S 143C-1-1, the RECIPIENT understands and agrees that agreement funding shall be subject to the availability of appropriated funds. However, in the event of agreement termination due to lack of adequate appropriated funds, the AGENCY will ensure that it will pay for services and goods acquired and obligated on or before the notice of agreement termination.

The RECIPIENT understands and acknowledges required compliance with all statutory provisions outlined in N.C.G.S. 143C-6-23 Use of State funds by non-State and 09 NCAC 03M .0205, Minimum Reporting Requirements for Recipients and Subrecipients.

Directed grants to nonprofit organizations are for nonsectarian, nonreligious purposes only (S.L. 2021-180, Sec. 5.2 (b)5). State funds for any one employee of a nonprofit are capped at \$120,000.00 (S.L. 2021-180, Sec. 5.3).

AGENCY'S DUTIES & PAYMENT PROVISIONS

The AGENCY shall ensure that funds allocated and disbursed Session Law 2021-180 comply with the intent and guidance found in this Session Law and ensure compliance with related state statutes and financial management standards.

The AGENCY shall pay the RECIPIENT a total not to exceed **\$300,000.00**. The RECIPIENT shall complete a "Request for Payment of Appropriation(s) from North Carolina General Fund" for **\$300,000.00** and submit to the AGENCY, along with all required documentation. Once the AGENCY is satisfied that the RECIPIENT has provided all the required documentation, the requested distributions can be processed for payment. The distributions of funds will be coded to **2E52-8146**.

3. QUARTERLY STATUS REPORTING

The RECIPIENT agrees to provide quarterly, or 90-day project status reports to be sent electronically from the RECIPIENT to the AGENCY and shall at a minimum include:

- a. Period stating beginning balance of the Project Fund.
 - i. Total expenses disbursed (aggregate totals) by the following project uses:
 - a. Employee Expenses (e.g. program related staffing).
 - b. Service and Contract expenses (e.g. utilities, telephone, data, lease related expenses).
 - c. Goods (e.g. supplies and equipment) expenses.
 - d. Administration Expenses (e.g. overhead & project management).
 - e. Other expenses (e.g. related charges not assigned above and described by recipient).
 - ii. Period ending balance of the RECIPIENT funding disbursed pursuant to this agreement.
 - iii. A descriptive summary of how the funds were used including outcomes and specific deliverables or accomplishments to date

ATTACHMENT B is a copy of the quarterly status tracking report.

- b. Quarterly project status reports shall be emailed to Darla Hall; darla.hall@ncdps.gov

4. FUNDS MANAGEMENT

The RECIPIENT agrees that funds paid through this contract shall be accounted for in a separate fund and accounting structure within the RECIPIENT's central accounting and grant management system. The RECIPIENT agrees to manage all accounts payable disbursements, check register disbursements and related transactions in a detailed manner that supports fully transparent accounting of all financial transactions associated with this funding allocations described in Section 3 above. Expenditures for travel mileage, meals, lodging and other travel expenses incurred in the performance of this Contract shall be reasonable and supported by documentation. State rates should be used as guidelines. International travel shall not be eligible under this Contract. If eligible, the Recipient and all subrecipients 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 N.C.G.S. 105-164.14; and (b) exclude all refundable sales and use taxes from all reportable expenditures before the expenses are entered in their quarterly project status reports.

5. AGREEMENT ADMINISTRATORS

All notices permitted or required to be given by one Party to the other and all questions about the Agreement from one Party to the other shall be addressed and delivered to the other Party's Agreement Administrator. The name, post office address, street address, telephone number, fax number, and email address of the Parties' respective initial Agreement Administrators are set out below. Either Party may change the name, post office address, street address, telephone number, fax number, or email address of its Agreement Administrator by giving timely written notice to the other Party.

For the AGENCY	
IF DELIVERED BY US POSTAL SERVICE	IF DELIVERED BY ANY OTHER MEANS
Joe Stanton, Assistant Director NC Department of Public Safety Emergency Management 4238 Mail Service Center Raleigh, NC 27607-4238 Telephone: 919-218-6325 Email: joe.stanton@ncdps.gov	Joe Stanton, Assistant Director NC Department of Public Safety Emergency Management 1636 Gold Star Drive Raleigh, NC 27607 Telephone: 919-218-6325 Email: joe.stanton@ncdps.gov

For the RECIPIENT	
IF DELIVERED BY US POSTAL SERVICE	IF DELIVERED BY ANY OTHER MEANS
Josh Harrold, Town of Black Mountain Manager 160 Midland Ave. Black Mountain, NC 28711 Telephone: 828-419-9300 ext 311 Cell Phone: Email: josh.harrold@tobm.org	Josh Harrold, Town of Black Mountain Manager 160 Midland Ave. Black Mountain, NC 28711 Telephone: 828-419-9300 ext 311 Cell Phone: Email: josh.harrold@tobm.org

6. MONITORING AND AUDITING

The RECIPIENT acknowledges and agrees that, from and after the date of execution of this Agreement and for five (5) years following its termination, the books, records, documents and facilities of the RECIPIENT are subject to being audited, inspected and monitored at any time by the AGENCY upon its request (whether in writing or otherwise). The RECIPIENT further agrees to provide AGENCY staff and staff of the Office of State Auditor with access to financial and accounting records to support internal audit, financial reporting and related requirements.

The RECIPIENT acknowledges and agrees that, regarding the grant funds, it will be subject to the audit and reporting requirements prescribed in N.C.G.S. 159-34, Local Government Finance Act – Annual Independent Audit, rules and regulations. Such audit and reporting requirements may vary depending upon the amount and source of grant funding received by the RECIPIENT and are subject to change.

7. TAXES

The RECIPIENT shall be considered to be an independent RECIPIENT and as such shall be responsible for all taxes. The RECIPIENT agrees to provide the AGENCY with the RECIPIENT'S correct taxpayer identification number upon the execution of this Agreement. The RECIPIENT agrees that failure to provide the AGENCY with a correct taxpayer identification number authorizes the AGENCY to withhold any amount due and payable under this Agreement.

8. SITUS

This Agreement shall be governed by the laws of North Carolina and any claim for breach or enforcement of this Agreement shall be filed in State court in Wake County, North Carolina.

9. SUBCONTRACTING AND ASSIGNMENT

The RECIPIENT agrees that by assigning or subcontracting any work related to the contract to a subcontractor or SUB-RECIPIENT, that such entities shall comply with the following:

- (a) The RECIPIENT or SUB-RECIPIENT is not relieved of any of the duties and responsibilities of the original contract; and
- (b) The SUB-RECIPIENT agrees to abide by the standards contained in this contract and to shall provide all information to allow the RECIPIENT to comply with these standards.

RECIPIENT agrees that all SUB-RECIPIENTS to this agreement shall comply with the following provisions of the North Carolina Administrative Code: "09 NCAC 03M .0203 SUB-RECIPIENT RESPONSIBILITIES."

10. ADVERTISING

RECIPIENT agrees not to use the existence of this contract, the name of the AGENCY, the or the name of the State of North Carolina as part of any commercial advertising, without prior written approval of the AGENCY.

11. COMPLIANCE WITH LAW

The RECIPIENT shall remain an independent RECIPIENT and as such shall be wholly responsible for the scope of work to be performed under this Agreement and for the supervision of his employees and assistants. The RECIPIENT represents that it has, or will 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. The RECIPIENT shall be responsible for compliance with all laws, ordinances, codes, rules, regulations, licensing requirements and other regulatory matters that are applicable to the conduct of his business and work performance under this Agreement, including those of Federal, State, and local agencies having appropriate jurisdiction.

The Recipient acknowledges and agrees that, in its conduct under this Contract and in connection with any and all expenditures of grant funds made by it, it shall comply with the cost principles enunciated in the Code of Federal Regulations, 2 CFR, Part 200. The Recipient further acknowledges and agrees that, if it grants any of the grant funds awarded hereunder to one or more sub-recipients or sub-sub-recipients, the Recipient shall, by contract, ensure that said cost principles are made applicable to and binding upon any and all such sub-recipients, sub-sub-recipients, etc. in their handling, use and expenditure of the funds awarded to the Recipient hereunder.

12. TERMINATION OF AGREEMENT

This agreement may be terminated by mutual consent upon sixty (60) days written notice to the other party, or as otherwise provided by law. As soon as reasonably possible following termination of this agreement, the amount of any residual unexpended funds shall be transferred to the AGENCY.

13. AMENDMENTS

This Agreement may be amended in writing which documents approval of changes by both the AGENCY and the RECIPIENT.

14. AGREEMENT CLOSE-OUT PROCESS

The RECIPIENT agrees to submit to the AGENCY a complete performance and expenditure status report (final report) within ninety (90) days after expiration of this agreement June 30, 2024:

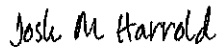
- 1) A complete accounting of how the appropriated funds were used;
- 2) A complete performance status report; and
- 3) A Certification stating the funds were used for the purpose appropriated (AGENCY will supply template).

The above noted reports shall include RECIPIENT and SUB-RECIPIENT reporting information related to the above noted quantitative results and accomplishments. RECIPIENT and any SUB-RECIPIENTS agree that all program activity results information reported shall be subject to review and authentication as described in Paragraph 7 and RECIPIENT will provide access to work papers, receipts, invoices and reporting records, if requested by the AGENCY, as the AGENCY executes any audit internal audit responsibilities.

RECIPIENT will be deemed noncompliant if its final report is not submitted within the 90-day period stated above. Once the complete final performance and financial status report package has been received and evaluated by the AGENCY, the RECIPIENT will receive official notification of agreement close-out. The letter will inform the RECIPIENT that the AGENCY is officially closing the agreement and retaining all agreement files and related material for a period of five (5) years or until all audit exceptions have been resolved, whichever is longer.

15. AUTHORIZED SIGNATURE WARRANTY

The undersigned represent and warrant that they are authorized to bind their principals to the terms of this agreement. **In Witness Whereof**, the RECIPIENT and the AGENCY have executed this Agreement in duplicate originals, with one original being retained by each party.

TOWN OF BLACK MOUNTAIN

6/1/2023 | 09:26:09 EDT

Signature

Date

Printed Name

Title

NC DEPARTMENT OF PUBLIC SAFETY

Signature

Date

Printed Name

Title

Attachment A: Scope of Work

SCOPE OF WORK

Project #1: Public Golf Course Bridge

Address: 17 Ross Drive
Black Mountain, NC 28711

Latitude: 35.6263007 Longitude: -82.3337864

Actual Cost to Town of Black Mountain:

In August 2021 Tropical Storm Fred produced heavy rainfall in Black Mountain resulting in considerable damage in parts of the town. A golf cart bridge, located on the towns public golf course, was swept away by the floodwaters. The streambank was also eroded and will need repair before the bridge can be replaced. Quotes received from contractors to install a new bridge using the same size and material as the previous bridge. Total cost of bridge is \$21,000 with total FEMA/State Funds reimbursed \$6,958.14 to replace the bridge. **Cost remaining for this project is \$14,041.86.**

Project #2: Veteran's Park

Address: 10 Veteran's Park Drive,
Black Mountain, NC 28711

Latitude: 35.60917 Longitude: -82.33575

Actual Cost to Town of Black Mountain:

In August 2021 Tropical Storm Fred produced heavy rainfall in Black Mountain resulting in considerable damage in parts of the town. Prior to the storm's arrival, the town contracted with a construction firm to perform stream restoration work on a section of the Swannanoa River (approximately 1,700 linear feet) that flows through the town owned park. Much of the stream restoration work had been completed when the flooding occurred. **The flooding event destroyed much of the work. Total Estimated Cost is \$344,163.33 with FEMA reimbursing \$168,000. Cost remaining for this project is \$285,958.14.**

COST ESTIMATE FOR PROJECT(S)

The **Memorandum of Agreement** states these two (2) projects is not to exceed \$300,000.00.

TIMELINE FOR COMPLETION

All work will be completed by June 30, 2024.

Attachment B:
Quarterly Status Report



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Jessica Trotman, *Planning Director* **MEETING DATE:** November 13, 2023
AGENDA SECTION: RESOLUTION **DEPARTMENT:** Planning
TITLE OF ITEM: Resolution to apply for Water Sources Development Grant through North Carolina Department of Water Quality (NCDWQ) **#R-23-17**

SUGGESTED MOTION(S):

To approve **Resolution #R-23-17** to apply for water sources development grant through NCDWQ.

I move to approve Resolution #R-23-17 for staff to apply for the water sources development grant through the North Carolina Department of Water Quality in the amount of \$85,000 for the Fairway Drive Stormwater Diversion Project.

SUMMARY:

The Stormwater Master Plan calls for the Fairway Drive Stormwater Diversion Project. The project includes installing a pipe under Tomahawk Avenue on the south side of Fairway Drive to route flow out of the existing ditch network and onto the golf course, maintaining, but reconfiguring, the existing roadside ditch for less runoff and to eliminate any safety or water quality concerns, determine the limits, conditions, and elevations of the existing pipe outlet behind residential homes and completely map the pipe system to final outfall, rehabilitate the existing 400-foot long swale through the woods on the eastside of Tomahawk Avenue on the golf course property by either diverting the swale onto the golf course (to ponding storage) or by addressing the deficiencies at the current end of the swale where no outlet seems to exist.

The estimated project cost is \$170,000 and the Water Sources Development Grant would allow the Town to apply for 50% of the funding while providing a 50% match.

BUDGET IMPACT: \$85,000 from stormwater utility fund. This is fund balance in the account.

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

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

ATTACHMENTS:

1. *Resolution #R-23-17*
2. *NCDWQ Conflict of Interest Statement*

RESOLUTION #R-23-17

**RESOLUTION TO APPLY FOR WATER SOURCES
DEVELOPMENT GRANT THROUGH NORTH CAROLINA
DEPARTMENT OF WATER QUALITY (NCDWQ)**

WHEREAS, the Town of Black Mountain Town Council desires to sponsor the Fairway Drive Stormwater Diversion Project; and

WHEREAS, the Fairway Drive Stormwater Diversion Project is called for in the Stormwater Master Plan; and

WHEREAS, the estimated project cost of the Fairway Drive Stormwater Diversion Project is \$170,000; and

WHEREAS, the Town Council requests the State of North Carolina to provide financial assistance to the Town of Black Mountain for the Fairway Drive Stormwater Diversion Project in the amount of \$85,000; and

WHEREAS, the Town of Black Mountain will provide \$85,000 for the Fairway Drive Stormwater Diversion Project from the stormwater fund balance; and

WHEREAS, the Town of Black Mountain will assume full obligation for payment of the balance of the project costs; and

WHEREAS, the Town of Black Mountain will obtain all necessary state and federal permits; and

WHEREAS, the Town of Black Mountain will comply with all applicable laws governing the award of contracts and the expenditure of public funds by local governments; and

WHEREAS, the Town of Black Mountain will supervise construction of the project to assure compliance with permit conditions and to assure safe and proper construction according to approved plans and specifications; and

WHEREAS, the Town of Black Mountain will obtain suitable soil disposal areas as needed and all other easements or rights-of-way that may be necessary for the construction and operation of the project without cost or obligation to the State; and

WHEREAS, the Town of Black Mountain will assure that the project is open for use by the public on an equal basis with no restrictions; and

WHEREAS, the Town of Black Mountain will hold the State harmless from any damages that may result from the construction, operation, and maintenance of the project; and

WHEREAS, the Town of Black Mountain will accept responsibility for the operation and maintenance of the completed project.

NOW THEREFORE, BE IT RESOLVED that the Town of Black Mountain Town Council bless staff to apply for the Water Resources Development Grant through the North Carolina Department of Water Quality in the amount of \$85,000 for the Fairway Drive Stormwater Diversion Project.

I move and adopt the foregoing resolution:

Council Member

READ, APPROVED AND ADOPTED, by a vote of _____ to _____ on this 13th day of November 2023.

C. Michael Sobol, Mayor

ATTEST:

Wesley Barker, Town Clerk

Josh Harrold, Town Manager

No Conflict of Interest Certification

The Town of Black Mountain hereby certifies that, to the best of its knowledge and belief, there are no present or currently planned interests (financial, contractual, organizational, or otherwise) relating to the work to be performed as part of the Fairway Drive Stormwater Diversion project that would create any actual or potential conflicts of interest (or apparent conflicts of interest) for any of its employees, contractors, subcontractors, designees or other entities or individuals involved in the Fairway Drive Stormwater Diversion project (including conflicts of interest for immediate family members: spouses, parents, or children) that would impinge on its ability to render impartial, technically sound, and objective assistance or advice or result in it being given an unfair competitive advantage.

In this certification, the term "potential conflict" means reasonably foreseeable conflicts of interest. The Town of Black Mountain further certifies that it has and will continue to exercise due diligence in identifying and removing or mitigating, to the NC Department of Environmental Quality's satisfaction, any such conflict of interest (or apparent conflict of interest).

Print Name: _____

Signature: _____

Title: _____

Date: _____



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Tammy Holland, *Finance Director* **MEETING DATE:** November 13, 2023

AGENDA SECTION: CONSENT AGENDA **DEPARTMENT:** Finance

TITLE OF ITEM: Swannanoa River Floodbench Project Ordinance

SUGGESTED MOTION(S):

Staff move that Council approve the Swannanoa River Floodbench Capital Project Ordinance as presented.

SUMMARY:

Authorizing Capital Project Swannanoa River Floodbench State Project Number SRP-SW-ARP-0026. This Funding has been approved by the State Water Infrastructure Authority (SWIA). The Local Assistance for Stormwater Infrastructure Investments (LASII) grant from the American Rescue Plan Act (ARPA), CFDA Number 21.027, grant will reimburse one hundred percent of eligible costs. Project must be completed by December 31, 2026. The town has been approved for Grant funding up to a maximum of \$5,000,000 (5 Million) dollars. Project funded through the ARPA state grant program are subject to applicable federal uniform guidance and law.

The Town is authorizing and budgeting for the \$5,000,000 of funds to be received and expenditures incurred for the Swannanoa River Floodbench Project. Grant Funding provided under the Local Assistance for Stormwater Infrastructure Investments (LASII) grant from the American Rescue Plan Act (ARPA)

480-8514-431000	Grant Revenue – Federal	Increase	\$5,000,000
480-8514-57210	Capital Outlay – Land Improvements	Increase	\$5,000,000

BUDGET IMPACT: Increase in budgeted funds and Expenditures of \$5,000,000.

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

If no, describe how it will be funded. Grant Funding

ATTACHMENTS:

- i. Ordinance



**Town of Black Mountain
Swannanoa River Floodbench
Project Number SRP-SW-ARP-0026
Capital Project Fund Ordinance**

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

Section 1. Authorizing Capital Project Swannanoa River Floodbench State Project Number SRP-SW-ARP-0026. This Funding has been approved by the State Water Infrastructure Authority (SWIA). The Local Assistance for Stormwater Infrastructure Investments (LASII) grant from the American Rescue Plan Act (ARPA), CFDA Number 21.027, grant will reimburse one hundred percent of eligible costs.

Section 2: The Town of Black Mountain defines a "Capital project" as a project financed in whole or in part by the proceeds of bonds, notes or debt instruments or a project involving the construction or acquisition of a capital asset with expenditures that span across multiple fiscal years.

Section 3: The officers of this unit are hereby directed to proceed with the capital project within the terms of the grant documents, and the budget contained herein.

Section 4. The following anticipated Revenues are hereby adopted:

Swannanoa River Floodbench- Revenue	
<u>Account</u>	<u>Funding</u>
450-8514-43100 Grant Revenue-Federal	\$5,000,000.00
Total Funds	\$5,000,000.00

Section 5 The following anticipated appropriations are hereby adopted:

Swannanoa River Floodbench- Expenses	
<u>Account</u>	<u>Anticipated Expense</u>
450-8514-57210 Capital Outlay-Land Improvement	\$5,000,000.00
Total Expenses	\$5,000,000.00



Section 6. The Finance Director is hereby directed to maintain within the Capital Project Fund sufficient specific detailed accounting records to satisfy the disclosure requirements of all the contractual agreements, if applicable.

Section 7. Copies of this Capital Project Ordinance shall be furnished to the Town Clerk, the Town Manager and the Finance Director for the direction in carrying out this project.

Section 8. Authorized project expenditures represent appropriations necessary for the completion of projects and therefore do not require re-appropriation in any subsequent fiscal year. However, per G.S. 159-13.2 information on project ordinances will be included in the annual budget. Each year the finance officer shall include in the budget, information in such detail as he or the governing board may require concerning each grant project or capital project. This information will be detailed for any new project funds expected to be authorized by project ordinance during the budget year and also include information on projects authorized by previously adopted project ordinances which have remaining appropriations available for expenditure during the budget year.

Duly adopted this 13th day of November 2023.

C. Michael Sobel
Mayor

ATTEST:

Savannah Parrish
Town Clerk

DETAILED PROJECT UPDATE



October 23, 2023

Angela Reece, MPA, MMC, NCCMC
Project & Facilities Manager

NORTH BANK SWANNANOA RIVER FLOODBENCH WETLAND CONSTRUCTION LASII GRANT PROJECT # SRP-SW-ARP-0026

Project Status: DELAYED

Total Project Budget: \$5,000,000.00

Identification Numbers:

Project Number: SRP-SW-ARP-0026

FEIN #: 56-6001182

UEID#: FBFRMA4EHMM5

DUNS #: 089148175

Assistance Listing Number: 21.027

Dates: Award March 23, 2023

Completion Date: Phased/December 31, 2026

Total Project Budget: \$5,000,000.00

Funding Sources (1) NCDEQ- Non-Matching Construction Grant

Eligible Obligated: \$5,000,000.00

Federal Obligated: \$5,000,000.00 (100.00%)

State Obligated: \$0.00 (0.00%)

Local Share: \$0.00 (0.00%)

This State Water Infrastructure Authority (SWIA) has approved this project to receive nonmatching grant funds through the Local Assistance for Stormwater Infrastructure Investments (LASII) grant from the American Rescue Plan Act (ARPA). Grant funds will be one hundred percent of eligible project costs up to a maximum of \$5,000,000. Projects funded by ARPA must meet applicable federal law and guidance for the ARPA funds.

Current Phase: Development of RFQ to procure design/construction services. ➡ Construction
The Town will use on-call engineering services to assist with preparation & submittal of the final scope of work to NCDEQ. Staff are working with Law Firm Parker Poe to write/solicit final design and construction services for this project. Project is delayed due to ARPA rules/regulations with right of way acquisitions. Project location has changed to town owned property to mitigate time constraints. Project is expected to be back on track by February 2024.

Engineering Firm: On-Call- Andrew Bick, P.E. Withers Ravenel

Construction Phase Milestone: Procured by December 30th, 2024.

ROY COOPER
Governor
ELIZABETH S. BISER
Secretary
SHADI ESKAF
Director



March 23, 2023

Mr. Josh Harrold, Town Manager
Town of Black Mountain
160 Midland Ave.
Black Mountain, NC 28711

Subject: Stormwater Construction Grant Letter of Intent
to Fund
Town of Black Mountain
Black Mountain North Bank Swannanoa River
Floodbench Project
September 2022 Application Cycle
Project No.: SRP-SW-ARP-0026

Dear Mr. Harrold:

The Division of Water Infrastructure (Division) has reviewed your application for a Stormwater Construction Grant, and the State Water Infrastructure Authority (SWIA) has approved your project as eligible to receive a grant. The Local Assistance for Stormwater Infrastructure Investments (LASII) grant from the American Rescue Plan Act (ARPA) will be one hundred percent of eligible project costs up to a maximum of \$5,000,000. Projects funded from ARPA must meet applicable federal law and guidance for the ARPA funds.

Please note that this intent to fund is contingent on meeting **all** of the following milestones:

<u>Milestone*</u>	<u>Date</u>
Engineering Report Submittal	July 3, 2023
Engineering Report Approval	September 1, 2023
Bid and Design Package Submittal	March 1, 2024
Bid and Design Package Approval	July 1, 2024
Advertise Project, Receive Bids, Submit Bid Information, <u>and</u> Receive Authority To Award	November 1, 2024
Execute Construction Contract(s)	December 31, 2024

*Failure to meet any milestone may result in the forfeiture of funding for the proposed project.

All costs incurred prior to March 3, 2021 are not eligible for ARPA funds and the Division will make no reimbursements of ARPA funds after December 31, 2026.



North Carolina Department of Environmental Quality | Division of Water Infrastructure
512 N. Salisbury Street | 1633 Mail Service Center | Raleigh, North Carolina 27699-1633
919.707.9160

The first milestone is the submittal of an Engineering Report on July 3, 2023. The Engineering Report must be developed using the guidance found on our website (<https://deq.nc.gov/about/divisions/water-infrastructure/i-have-funding/engineering-reportenvironmental-information>). Failure to meet any milestone may result in the forfeiture of funding for the proposed project.

The State Environmental Policy Act exempts projects funded by the State Reserve from state-mandated environmental review. Federal requirements may still apply. [NCGS 113A-12(2)h.]

Upon detailed review of the project during the funding process, it may be determined that portions of your project are not eligible for funding and the total funding amount may be reduced. Additionally, changes in the scope or priority points awarded – based on additional information that becomes apparent during project review – may also result in changes to the total funding amount and loan terms.

Engineering Services Procurement

The Uniform Guidance 2 CFR 200.317 through 2 CFR 200.327 gives minimum requirements for procurement, with 2 CFR 200.319(b) addressing engineering services procurement guidelines. ARP-funded projects must also adhere to North Carolina State law. All projects must also comply with North Carolina General Statute 143-64.31, Article 3D Procurement of Architectural, Engineering, and Surveying Services. Projects cannot be exempted from qualification-based selection of these services under N.C.G.S. 143-64.32. Any services provided that were not selected in compliance with federal requirements will be ineligible for reimbursement.

Upon receipt of your letter of intent to fund, please fill out the attached Federal ID & Unique Entity ID (UEI) form, attached and email it to Pam Whitley at pam.whitley@ncdenr.gov. If you choose to decline this funding, the Authorized Representative as declared in the application must directly contact the Division project manager via email or letter on the applicant's letterhead.

If you have any questions, please contact Logan Kluttz, PE at logan.kluttz@ncdenr.gov or by phone at (919) 618-6064.

Sincerely,



Jon Risgaard, Chief
State Revolving Fund Section

EC: Amanda Whitaker, WithersRavenel (via email)
David Perry, PE, WithersRavenel (via email)
Logan Kluttz, PE (via email)
LASII Project File (**COM_LOIF**)



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Jessica Trotman, *Planning Director* **MEETING DATE:** November 13, 2023

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

TITLE OF ITEM: Public Hearing for Text Amendment to Fee Schedule **#O-23-18**

SUGGESTED MOTION(S):

To approve **Ordinance #O-23-18** as presented [or as amended].

I move that we adopt **ordinance #O-23-18** to amend the fee schedule to add subcategories for floodplain development permits, adding a fee for working without a permit, increasing the fee for demolition permits, correcting ABC inspection fees, reinspection fees, and mechanical changeout fees.

SUMMARY:

The current fee schedule does not include a fine for working without a permit and does not have subcategories for floodplain development permits. The proposed amendments add a fee for working without a permit, adds subcategories and fees for floodplain development permits, and makes a few other minor amendments to existing fees such as making the reinspection fee the same as the inspection fee, increasing the demolition permit cost, correcting ABC inspection fees, and correcting the mechanical/electrical changeout fee.

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-23-18

ORDINANCE #O-23-18

**AN ORDINANCE TO AMEND TOWN OF BLACK MOUNTAIN SCHEDULE OF FEES
AND RATES**

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 the Town of Black Mountain Schedule of Fees and Rates, of the Town of Black Mountain Code of Ordinances, be amended to the following (additions are underlined in bold and deletions are shown as red struck text):

Permits	
General	
Zoning Permit	\$75.00
Floodplain Development Permit	\$600.00
• <u>Interior Renovations with no structural change</u>	<u>\$0.00</u>
• <u>Exterior Utilities</u>	<u>\$50.00</u>
• <u>Interior/Exterior Structural Changes (including utilities)</u>	<u>\$75.00</u>
• <u>Small Level Floodplain Permit</u>	<u>\$150.00</u>
• <u>Medium Level Floodplain Permit</u>	<u>\$300.00</u>
• <u>Large Level Floodplain Permit</u>	<u>\$600.00</u>
Fence Permit	\$50.00
Retaining Walls	\$75.00
<u>Working without a Permit</u>	<u>Double the permit fee</u>
Sign Permits	
Free Standing Sign	\$250.00
Temporary Signs -Special Event-Limit of 30 days**	\$25.00
A-Frame Annually	\$50.00
All other regulated signs	\$200.00
Political (Deposit Only)*	\$100.00
*Deposit will be returned ten days after the election if all signs have been removed	
**Temporary signs, flags, banners, etc. – Not to exceed 50 sf. Ft Aggregate area, must be on premise, freestanding or mounted to wall	
BUILDING INSPECTIONS	
Permits and Fees*	
Fees	
Technology Fee-All Permits and Fees*	4% of Transaction Total
Re-Inspection Fee	\$80.00 <u>\$85.00</u>
Certificate of Occupancy	\$100.00
Single-Family Plan Review Fee	\$100.00
Commercial Plan Review (Tech Review)	\$500.00
Homeowners Recovery Fund Fee*	\$10.00
Fire Inspection	\$50.00

ABC License <u>Inspection</u>	\$50.00 per trade discipline <u>\$100.00</u>	
Permits		
Day Care Centers	\$85.00 per trade discipline	
Demolition Permit (with AQ Permit)	\$75.00 <u>\$100.00</u>	
Electrical, Mechanical & Plumbing	\$85.00 per trade discipline	
Grading Permit	\$600.00	
Driveway Permit	\$100.00	
Modular Office	\$125.00	
Moved Home	\$400.00	
Temporary Structures (tents, etc.) 400 sf or greater	\$150.00	
<u>Temporary Certificate of Occupancy</u>	<u>\$100.00</u>	
<u>Temporary Utility Service</u>	<u>\$100.00</u>	
<i>*Homeowners Recovery Fund is established as a special account of the State to reimburse homeowners who have suffered a reimbursable loss in constructing or altering a sing-family dwelling unit</i>		
Fire Construction Plan Review	Black Mountain	Montreat
Commercial Kitchen Hood Suppression System	\$100.00	\$110.00
Explosives and Fireworks	\$100.00	\$110.00
Petroleum tanks and appurtenances	\$100.00	\$110.00
Inspection Fees*		
RESIDENTIAL FEES		
General		
Electrical, Mechanical, and Plumbing	\$85.00 per inspection, per trade discipline	
Certificate of Occupancy	\$40.00	
Mechanical/Electrical Change out	\$100.00 <u>\$75.00</u>	
Clean-up Fee (refundable)*	\$100.00	
<i>*Clean-up fee is refunded to the applicant upon final inspection, all construction materials removed, final grading and stabilization is completed.</i>		

READ, APPROVED, AND ADOPTED by a vote of _____ to _____ this the 13th day of November 2023.

C. Michael Sobol, Mayor

ATTEST:

Wesley Barker, Town Clerk



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Jessica Trotman, *Planning Director* **MEETING DATE:** November 13, 2023
AGENDA SECTION: PUBLIC HEARING **DEPARTMENT:** Planning
TITLE OF ITEM: Public Hearing for Conditional Zoning Request for Montreat College #O-23-22

SUGGESTED MOTION(S):

1. To open the public hearing for **Ordinance #O-23-22** for conditional zoning request for Montreat College.
2. To close the public hearing.
3. To adopt **Ordinance #O-23-22** (statement of consistency included) as presented [or as amended] with the following motion:

I move that we approve text amendment #O-23-22 to add Montreat College Black Mountain campus as an institutional campus district conditional zone and that the amendment is consistent with the comprehensive plan and is reasonable and in the public interest in that it promotes development of underutilized property with existing infrastructure and allows design and connection to balance the needs of pedestrians, drivers, cyclists, and transit users.

SUMMARY:

Montreat College is requesting a conditional zoning to expand their Black Mountain Campus. The zoning district is currently institutional campus district (ICD) and they are asking to be rezoned to institutional campus conditional zoning district (ICD-CZ). Conditional zoning marries the development to a site specific plan. Montreat College is not looking to do any uses that are not already allowed in the current institutional campus district. The Planning Board heard the request at their regular meeting on September 25, 2023, and voted unanimously to recommend the request.

Montreat College is not requesting any uses that are not already allowed in the current institutional campus district.

The conditional zoning application does vary from the base zoning district by allowing building height maximums of 75 feet compared to the base zoning district of 35 feet. The height is deemed a reasonable request due to the topography of the parcel, with the building locations generally below grade of the adjacent roads and vegetative buffering.

The conditions offered by the applicant and supported by Planning Board include:

- The new entrance off of Blue Ridge Road shall be included in phase one of the project.

- The access points at Vance Avenue and Terry Estate Drive be limited to official college vehicles and emergency vehicles
- Bicycle and pedestrian facilities shall be included at the time the residence halls are constructed and the facilities shall not be required to follow the path of the new access road.
- Height shall be limited to four stories or seventy-five feet as measured by the Town's regulations with any rooftop mechanical equipment to be screened from public view.
- No construction traffic shall be on Vance Avenue.
- A phasing map shall be included with the conditional zoning application.

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-23-22

CONDITIONAL DISTRICT ZONING MAP AMENDMENT APPLICATION

www.townofblackmountain.org

REQUIRED TO BE SUBMITTED AT TIME OF APPLICATION (check all that apply)

Note: A pre-application meeting is required prior to application submittal.

Failure to provide the information required on this application may delay the review and scheduling of the required hearing.

- ☒ Digital copies of all paper submittal documents (may be emailed to Jennifer.tipton@tobm.org)
- ☒ 7 paper copies of complete site plans meeting the requirements of Town of Black Mountain Land Use Code (max. size 30" x 42")
- ☒ Deed(s) of all property to be included in the request
- ☒ Both a digital and a hard copy of a written metes and bound legal description with accompanying survey map for a request that would rezone only a portion of a tax parcel or requests for multiple zoning districts
- ☐ Property Owner Authorization. If you are not the property owner, you will need to provide documentation of property owner authorization to apply for this permit.
- ☒ Permit Fee

PROPERTY INFORMATION (Project Location)

Street Address: 191 Vance Ave. PIN #: 060993948000000

PROPERTY OWNER INFORMATION

Name: Montreat College

Mailing Address: Po Box 1267 Montreat, NC 28757

Phone #: 828-669-8012 Email: john.beaghan@montreat.edu

APPLICANT INFORMATION

Name: Montreat College Company: _____

Mailing Address: Po Box 1267 Montreat, NC 28757

Phone #: 828-669-8012 Email: john.beaghan@montreat.edu

DETAILED DESCRIPTION OF PROJECT

Montreat College masterplan for the entire tract (+/- 89
acres) and attached Masterplan Notes & Conditions

PROJECT COST:

\$: +/- \$400 million

DEVELOPMENT INFORMATION

Is the development subject to a previous Special Use Permit? ☐ Yes ☒ No

If yes, please describe: _____

Town of Black Mountain
160 Midland Avenue
Black Mountain, NC 28711
828-419-9300, option 5

CONDITIONAL DISTRICT ZONING MAP AMENDMENT APPLICATION

www.townofblackmountain.org

Are there any other variances granted that impact the property? ☐ Yes ☒ No

If yes, please describe: _____

Are there any other variances requested with this development? ☐ Yes ☒ No

If yes, please describe: _____

DISTRICT/USE INFORMATION

Existing Zoning District: ICD Proposed Zoning District: ICD-CZ

Existing Land Use(s):

Montreat College Campus

Proposed Land Use(s):

Montreat College Campus

SITE INFORMATION (include information for additional buildings on a separate sheet)

Building Footprint Square Footage: Current: _____ Proposed: TBD

Total Building Square Footage (all floors): Current: _____ Proposed: TBD

Number of Stories: Current: _____ Proposed: TBD

Building Height: Current: _____ Proposed: TBD

Number of Units: Current: _____ Proposed: TBD

Number of Bedrooms: Current: _____ Proposed: TBD

See Masterplan Notes & Conditions

ENVIRONMENTAL INFORMATION

Total Land Area: +/- 89 Acres ☐ Sq. Feet or ☐ Acres

Disturbed Area: TBD ☐ Sq. Feet or ☐ Acres

Slope:

Is development occurring on slopes in excess of 36%? ☐ Yes ☒ No

If yes, what is the slope percentage: _____

Watershed:

Is the property located within a designated Water Supply Watershed Area? ☐ Yes ☒ No

Stream/River:

Is there a stream or river on or near the property? ☒ Yes ☐ No

SFHA:

Is the property located within the Special Flood Hazard Area? ☒ Yes ☐ No

Town of Black Mountain
160 Midland Avenue
Black Mountain, NC 28711
828-419-9300, option 5

CONDITIONAL DISTRICT ZONING MAP AMENDMENT APPLICATION

www.townofblackmountain.org

If yes, what is the flood zone and base flood elevation: Varies

Impervious Area:

What is the existing impervious area in the development? +/- 7 ☐ Sq. Feet or ☒ Acres

What is the proposed impervious area in the development? TBD ☐ Sq. Feet or ☐ Acres

DESIGN PROFESSIONAL INFORMATION

Designer is an: ☐ Architect ☒ Engineer ☐ Owner ☐ Other: _____

Name: Jesse Gardner, P.E. Company: Civil Design Concepts, PA

Mailing Address: 168 Patton Ave Asheville, NC 28801

Phone #: 828-252-5388 Email: jgardner@cdcgo.com

Additional Designer Information: If additional designers are involved beyond the one listed, please provide additional information on a separate sheet.

BROWNFIELDS AGREEMENT NOTIFICATION

1. Does the applicant have or is the applicant planning to enter into a Brownfield Agreement with the NC Brownfields Program? ☐ Yes ☒ No
If yes, please answer question #2 below

2. Anticipated date for the first year of partial exclusion of property taxes: _____

APPLICANT SIGNATURE AND PROPERTY OWNER AUTHORIZATION

I hereby certify that I am authorized to submit this application; that all information is correct and complete; and all work will comply with all applicable state and local laws, ordinances, and regulations. I will ensure that the Planning and Development Department is notified of any changes in the approved plans and specifications for the project permitted herein.

Montreat College

Applicant (Print)



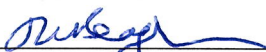
Applicant (Signature)

2/31/23

Date

Montreat College

Property Owner (Print)



Property Owner (Signature)

2/31/23

Date

OFFICAL USE ONLY

Permit Name: _____

Permit #: _____ Date: _____ Fee: _____ ☐ check ☐ CC

Tech Review Meeting Date: _____

Town of Black Mountain
160 Midland Avenue
Black Mountain, NC 28711
828-419-9300, option 5

CONDITIONAL DISTRICT ZONING MAP AMENDMENT APPLICATION

www.townofblackmountain.org

Planning Board Meeting Date:	_____
Town Council Meeting Date:	_____
Date of Mailed Notification:	_____
Date of Property Posting:	_____
Request Approved:	☐ Yes ☐ No

Town of Black Mountain
160 Midland Avenue
Black Mountain, NC 28711
828-419-9300, option 5

MONTREAT COLLEGE

Campus Master Plan Notes and Conditions

Background/Impetus

To assist the College's nationally recognized cybersecurity training program, the North Carolina General Assembly appropriated \$30 million for the design and construction of a Cyber Security Facility on the College's campus. As a consequence of the General Assembly's appropriation, the College engaged in an extensive master planning process to provide guidance as to where on its Black Mountain Campus ("Campus") the Cybersecurity Facility would be best located, along with guidance to establish and maintain overall design integrity on the Campus while maximizing positive impacts on neighboring areas and minimizing possible adverse impacts.

Master Plan Notes and Conditions

This Master Plan depicts uses and improvements envisioned by the College at the Black Mountain Campus arising from the College's master planning process which included an extensive review of its Montreat Campus, its Black Mountain Campus, both the advantages and opportunities of each campus as well as their specific constraints.

The guiding principles of the College's Master Plan are to **(1)** reinforce revenue sustainability, **(2)** protect and maintain facilities, **(3)** strengthen academic offerings, **(4)** enhance a vibrant student culture and **(5)** connection of the two campuses. It is foreseeable during the development of the Black Mountain Campus that many changes in higher education, technology, transportation, and skills needed for the 21st century will occur. This Master Plan binds the College to **(A)** develop the Campus to contain only uses permitted in the Institutional Campus Development district, **(B)** develop and maintain the principal and secondary access to and from the Campus as depicted on the Master Plan, **(C)** comply with the State Building and State Fire Codes as they exist when the College seeks Town of Black Mountain ("Town") approval for construction of an improvement or facility, **(D)** comply with the Town's standards for stormwater, floodplain, public/private street/road configuration and design and parking space number/standards as these regulations exist on August 28, 2023, unless modified by the Master Plan or the Development Agreement as they are approved by the Town but with the option of proposing alternative designs within the Campus which satisfy the intent of these regulations and **(E)** establish a perimeter buffer around the Campus as described below. Additionally, the College commits to development of the Tomahawk Branch Loop Trail as a dawn to dusk public pedestrian and non-motorized bicycle only trail on the Campus with appropriate security to protect the Campus such as gates and similar protective features. Inside the Campus' perimeter buffer, the College maintains flexibility to locate/relocate uses, buildings, and improvements to achieve and maintain the guiding principles of the College's Master Plan.

The following Plan Notes provide more detailed statements and commitments.

Campus Perimeter Buffer

Subject to existing conditions and structures and the layout of internal private streets, parking areas and new baseball field shown on the Master Plan and modifications approved by Town staff, where the Campus adjoins existing residential development, a buffer shall be 100 feet or screened by landscaping, natural vegetation, landscaped berm, topography, fence or wall except single family dwellings with or without accessory apartments, duplexes, triplexes, quadraplexes, parks (without spectator seating), automotive and pedestrian access approved by the Town, stormwater management approved by the Town and signage approved by the Town may be located within the buffer.

General Provisions

A. The development on the Campus shall be governed by the Development Agreement between the Town and College, this Master Plan, and the Black Mountain Land Use Code as of the date the Master Plan was submitted to the Town for approval, August 28, 2023 unless modified by the Master Plan or the Development Agreement as they are approved by the Town or the College agrees in writing to a development regulation in effect after August 28, 2023. All uses permitted generally or specially in the Town's Institutional Campus Development District shall be generally permitted and allowed on the Campus as a matter of right.

B. This Master Plan is illustrative and conceptual in nature and requires flexibility to accommodate, among other matters, environmental matters, site conditions, physical constraints and design parameters, and changes in higher education, transportation, technology, and evolving changes in the skill sets needed for the 21st century. As such, the scope, size, location, and other depictions of improvements, the exact location of roadways and boundary lines between land uses, phase lines and their subsequent location and size, shall be subject to change by the College at the time the College submits construction plans to the Town for its review and approval under section 2.1.4 of the Town's Land Use Code. The number designation of phases is for convenience. Phases may be developed in any order and completion of one phase is not necessary for beginning development and construction in another phase. Phases and phase lines may be adjusted by the College as needed.

C. The Campus is a planned, unified educational campus. The elements depicted on the Master Plan shall be viewed with the goal of maintaining the overall design integrity of the Campus and its facilities and provide positive impacts of the Campus on neighboring areas while ameliorating possible adverse impacts. Accordingly, side and rear yards, buffers, building height separation standards, and other similar development standards within the Campus will not be required between improvements and other elements on the Campus except to the extent required by the State Building Code and the State Fire Code at the time of submittal by the College of its construction plans, and the Town's Land Use Code existing on August 28, 2023 including the Town's stormwater and floodplain regulations unless modified by the Master Plan or the Development Agreement as they are approved by the Town or the College agrees in writing to a development regulation in effect after August 28, 2023.

D. The College shall have the right to subdivide and/or recombine lots within the Campus and the lots shall be exempt from any internal separation or dimensional standards.

E. As shown on the Master Plan, the primary access to the Campus will be from Blue Ridge Road. The College will provide in its construction contracts that contractors will only use the primary access private street from Blue Ridge Road for access to the Campus. The secondary access points shown on the Master Plan will be limited to secondary access in connection with occasional special events, College shuttles, and emergency fire and police access. All secondary access points will either be gated, have knock down barricades, or restrictive signage and may have other similar devices approved by the Town.

F. The proposed private Campus street system and parking areas shown on the Master Plan are conceptual and the exact location and configuration of any private Campus street, or similar right of way within the Campus is subject to change based on, among other things, future environmental concerns, site conditions, physical constraints, design parameters, ultimate land uses and improvements and changes in transportation practices. Access point 9 from U.S. Highway 70, as shown on the Master Plan, is optional. In order to achieve the benefit of locating the primary access to the Campus as being from Blue Ridge Road, the Master Plan shows the primary private access street along the narrow western neck of the Campus where there is minimal separation between the existing active railroad corridor and the Swannanoa River. If necessary, the private access street may be located within Town regulated stream buffer or stormwater management area. Generally, Campus private streets will be paved at a minimum width of twenty (20) feet.

G. The Campus is located within the Swannanoa River basin with Tomahawk Branch generally bisecting the Campus and the Swannanoa River being a portion of the Campus' southwest border. Development of the Campus will be subject to stormwater management requirements as set forth in the Town's Land Use Code as of August 28, 2023 unless modified by the Master Plan or the Development Agreement as they are approved by the Town or the College agrees in writing to a development regulation in effect after August 28, 2023.

H. The location, size, and type of stormwater management systems depicted on the Master Plan are subject to review and approval as part of review of applications for permits as provided by section 2.1.4 of the Land Use Code. Adjustments may be necessary to accommodate actual stormwater treatment requirements, natural site discharge points and private streets of the Campus.

I. Streams, wetlands, open spaces and trails and regional greenways are provided on the Master Plan based on preliminary information available to the College when it submitted the Master Plan to the Town. The actual location of streams, wetlands, the Tomahawk Branch Loop Trail, the existing pedestrian and non-motorized bicycle greenway and other open spaces will be shown on applications prepared by the College for permits issued pursuant to section 2.1.4. of the Town's Land Use Code as it existed on August 28, 2023 unless modified by the Master Plan or the Development Agreement as they are approved by the Town, or the College agrees in writing to a development regulation in effect after August 28, 2023.

J. Site elements of the Campus such as, without limitation, buildings, parking, driveways, and outdoor activities should be arranged to emphasize the more aesthetically pleasing components of the Campus (e.g., landscaping and architectural features) and disguise less attractive elements (e.g., service facilities, outdoor storage, equipment areas, and refuse enclosures) through proper placement and design of buildings, and landscaping.

K. The Master Plan includes uses, buildings and other improvements intended for students to live on the Black Mountain Campus. Uses, buildings and other improvements on the Campus will be located and arranged to ensure that the Campus functions as a live, learn, work, and play integrated development for students, faculty and staff and designed for religious, art and cultural events and college sports. Recognizing that parking ratios are everchanging and evolving, the College shall have the right to submit actual parking studies on its campuses or nationally recognized parking studies and request Town staff to review and approve parking ratios different than provided by the Town's Land Use Code in effect on August 28, 2023, as an alternative design.

L. The Town and the College recognize that each component of the Campus must be considered individually; and are committed to a collaborative review process that has the shared objective among project proponents, project reviewers, and other interested parties of ensuring enduring and sustainable development and promoting quality design. Flexibility in considering alternative approaches to good design allows the Town and the College to encourage design creativity and avoid possible undue hardships in particular situations. Considering this commitment, alternative site and design elements for the Campus may be reviewed and approved on a case-by-case basis by staff approval of applications pursuant to section 2.1.4 of the Town's Land Use Code in effect on August 28, 2023, unless modified by the Master Plan or the Development Agreement as they are approved by the Town or the College agrees in writing to a development regulation in effect after August 28, 2023.

Greens, Plazas & Open Space

A series of passive and active open space areas will be provided throughout the Campus. The exact location and configuration of these open space areas may vary from what is illustrated on the Master Plan and final locations and configuration of the open space areas will be determined/finalized during approval of plans pursuant to section 2.1.4 of the Town's Land Use Code unless modified by the Master Plan or the Development Agreement as they are approved by the Town, or the College agrees in writing to a development regulation in effect after August 28, 2023. Open space may include passive and active features such as parks, pedestrian and bike trails, regional trails, amenitized stormwater facilities (internal or external to the facility), existing streams and buffer yards, landscape areas, greens, plazas, sidewalk areas where seating is available, greenhouses, orchards, community gardens, tree save areas, and similar areas, including without limitation the existing pedestrian and non-motorized bicycle greenway along the southern border of the Campus and the new Tomahawk Branch Loop Trail. Open space for the overall Campus is cumulative and will be calculated by the College and provided to the Town for each permit application submitted to the Town for review and approval.

Public/Private Streetscapes

Principal buildings should be placed to present a front or side facade to all public and private streets when feasible. All buildings adjacent to public or private streets shall face upon the street with an entrance and have architectural features such as but not limited to windows, banding, medallions, or design features or materials will be provided to avoid a sterile, unarticulated blank treatment of such walls. Solid waste containers shall be located to the rear or side of such buildings and appropriately screened from streets.

Building and other site elements will be located and arranged to promote pedestrian scale, enhance the streetscape realm, and provide walkability within the Campus for students, faculty, and staff. To this end, no building on the Campus shall exceed four (4) stories (sixty (60) feet in height measured from the ground at the building's main entrance to the ceiling of the highest occupied floor.)

Signage

Signage as allowed by the Town's Land Use Code in effect on August 28, 2023, may be provided unless modified by the Master Plan or the Development Agreement as they are approved by the Town or College agrees in writing to a development regulation in effect after August 28, 2023.

Lighting

All exterior wall and pole lighting in vehicular and loading areas will be semi cut-off or full cut-off type lighting fixtures pedestrian-scale, lower, decorative lighting and should be installed along sidewalks and at building entryways.

Primary Access to/from Campus

The primary vehicular access from Blue Ridge Road should be enhanced with elements such as ornamental landscaping, low-level decorative walls, monument-type signs, and decorative paving to emphasize site access locations.

Development and Use of the 2-Acre Parcel

The 2-acre parcel at the northwestern corner of the Campus adjacent to Blue Ridge Road and existing Light Industrial uses may be developed and used for any use which is accessory (incidental and subordinate) to the College, or the uses permitted in the Institutional Campus District. By way of illustration (and not limitation) this parcel may be developed and be used as a welcome center or other facility for the benefit of the College and convenient for students, parents of students, faculty, and other College employees. The use will be accessory and subordinate to the College or the Campus when it furthers the College's mission or enhances the live, work, learn, play function of the Campus. The use shall not be required to exclude members of the general public.

Variation from ICD Standards/Amendment of the Plan Notes

The Master Plan Notes and Conditions are intended to allow design, review and approval of development on the Campus which may vary from ICD standards. *See*, Town Code § 1.5.5.B.5. Changes to the Plan Notes shall be deemed minor modifications and approved by the Town Planning Director administratively.

ORDINANCE #0-23-22

AN ORDINANCE TO ADD SECTION 4.7.16 TO APPENDIX A, LAND USE CODE, CHAPTER 4, SECTION 4.7, TO ADD INSTITUTIONAL CAMPUS DISTRICT CONDITIONAL ZONING FOR MONTREAT COLLEGE PROPERTY LOCATED AT 191 VANCE AVENUE, PIN #0609-93-9480.00000

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 for development of underutilized land and served by infrastructure and design principle four for connection and design to balance the needs of pedestrians, drivers, cyclists, and transit users.

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:

Allows development of underutilized land that is served by infrastructure and is connected and designed to balance the needs of pedestrians, drivers, cyclists, and tourist users.

WHEREAS, after notice duly given, a public hearing was held on October 9, 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 4.7 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):

4.7.16 – Montreat College ICD-CZ

4.7.16.1 Conditions.

- 1. The new entrance off of Blue Ridge Road shall be included in phase one of the project.**

2. Bicycle and pedestrian facilities shall be included at the time the residence halls are constructed and the facilities shall not be required to follow the path of the new access road.
3. The access points at Vance Avenue and Terry Estate Drive shall be limited to official college vehicles and emergency vehicles.
4. Height shall be limited to four stories or seventy-five feet as measured by the Town's regulations with any rooftop mechanical equipment to be screened from public view.
5. No construction traffic shall be on Vance Avenue.
6. A phasing map shall be included with the conditional zoning application.

This ordinance shall not be effective until the stipulated list of conditions is consented to in writing by the applicant and all owners of the subject property. Upon such written consent, this ordinance shall be effective retroactive to the date of its adoption.

READ, APPROVED AND ADOPTED, by a vote of ____ to ____ on this the 13th day of November 2023.

C. Michael Sobol, Mayor

ATTEST:

Wesley Barker, Town Clerk

With their signatures below, the undersigned applicant(s) and property owner(s) consent to and agree to the imposition of the conditions stated.

Applicant: Montreat College
Signature: _____
Printed Name: _____
Date: _____

Property Owner: Montreat College
Signature: _____
Printed Name: _____
Date: _____



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Jessica Trotman, *Planning Director* **MEETING DATE:** November 13, 2023

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

TITLE OF ITEM: Public Hearing for Map Amendment for Montreat College **#Z-O-23-23**

SUGGESTED MOTION(S):

To open the public hearing for **Zoning Ordinance #Z-O-23-23** for a map amendment for the institutional campus district.

2. To close the public hearing.

3. To adopt **Zoning Ordinance #Z-O-23-23** (state of reasonableness included) as presented [or as amended] with the following motion:

I move that we approve zoning map amendment **#Z-O-23-23** to conditionally zone the Montreat College Black Mountain campus as institutional campus district conditional zone and that the zoning map amendment is reasonable and in the public interest in that the overall size of the tract is reasonable compared to the size of the zoning district in which the property is located, it is consistent with the comprehensive plan, the impact to adjacent property owners is reasonable and the benefits of the rezoning outweigh any potential inconvenience or harm to the community and allowed uses within the proposed rezoning district are similar to the permitted uses as currently zoned.

SUMMARY:

Montreat College is requesting a conditional zoning to expand their Black Mountain Campus. The zoning district is currently institutional campus district (ICD) and they are asking to be rezoned to institutional campus conditional zoning district (ICD-CZ). Conditional zoning marries the development to a site-specific plan. The Planning Board heard the request at their regular meeting on September 25, 2023, and recommended the conditional rezoning request unanimously.

Montreat College is not requesting any uses that are not already allowed in the current institutional campus district.

The conditional zoning application does vary from the base zoning district by allowing building height maximums of 75 feet compared to the base zoning district of 35 feet. The height is deemed a reasonable request due to the topography of the parcel, with the building locations generally below grade of the adjacent roads and vegetative buffering.

The conditions offered by the applicant and supported by Planning Board include:

- The new entrance off of Blue Ridge Road shall be included in phase one of the project
- Bicycle and pedestrian facilities shall be included at the time the residence halls are constructed and the facilities shall not be required to follow the path of the new access road
- The access points at Vance Avenue and Terry Estate Drive be limited to official college vehicles and emergency vehicles
- Height shall be limited to four stories and seventy-five feet as measured by the Town's regulations with any rooftop mechanical equipment to be screened from public view
- No construction traffic to be on Vance Avenue
- A phasing map shall be included with the conditional zoning application

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 #Z-O-23-23

ORDINANCE NO. #Z-O-23-23

AN ORDINANCE AMENDING THE ZONING MAP TO ADD MONTREAT COLLEGE PROPERTY LOCATED AT 191 VANCE AVENUE, PIN #0609-93-9480, AS AN INSTITUTIONAL CAMPUS DISTRICT CONDITIONAL ZONE

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:

1. The overall size of the tract of land proposed for rezoning is reasonable compared to the size of the zoning district in which the subject property is located.
2. The proposed rezoning is consistent with the comprehensive plan.
3. The impact to the adjacent property owners and the surrounding community is reasonable and the benefits of the rezoning shall outweigh any potential inconveniences or harm to the community.
4. The allowed uses within the proposed rezoning district are similar to the permitted uses as currently zoned.

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 0609-93-9480.00000, recorded in Deed Book 2429, Page 0668 and currently owned by Montreat College, be rezoned to institutional campus district conditional zone (ICD-CZ). 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.

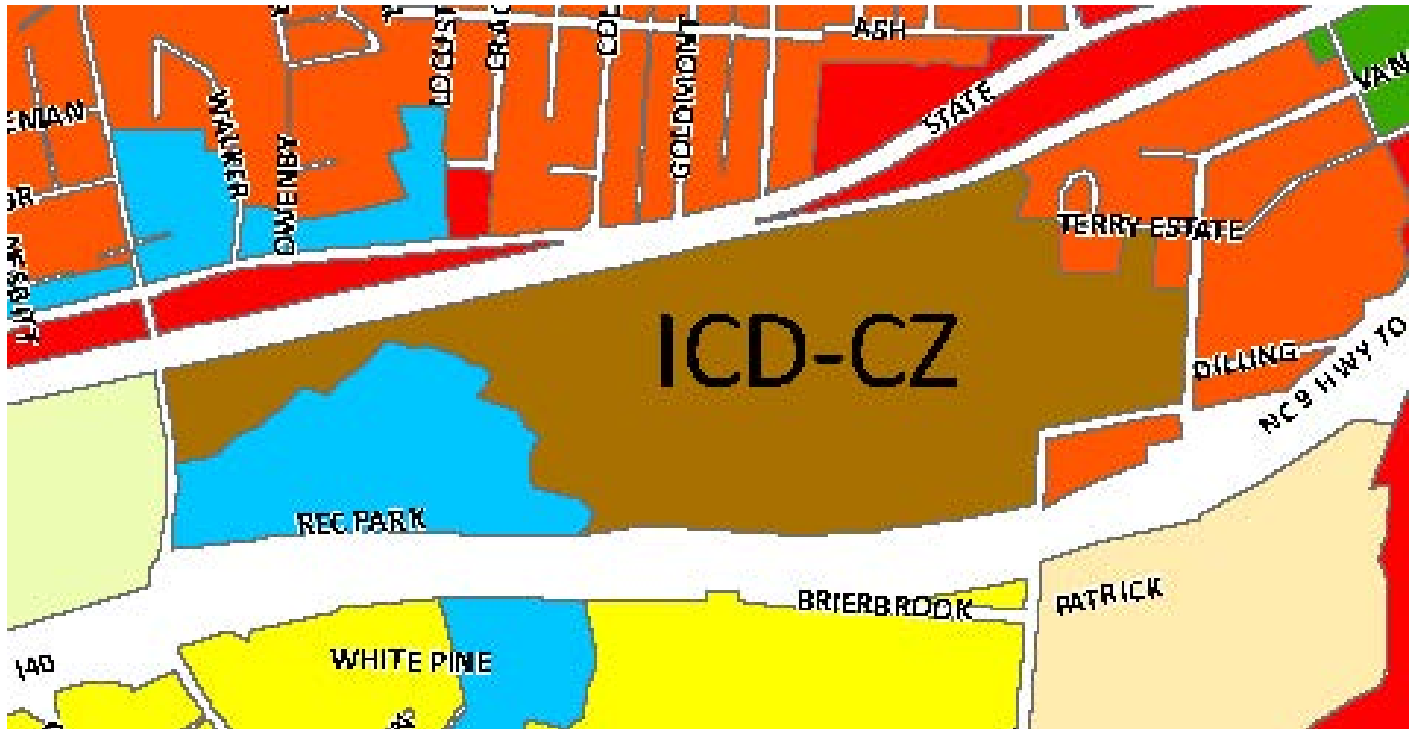
READ, APPROVED AND ADOPTED, this the 13th day of November 2023.

Wesley Barker, Town Clerk

C. Michael Sobol, Mayor

Approved as to form

**Town of Black Mountain
Exhibit A – Proposed Zoning
Conditional Zoning Request
Montreat College Black Mountain Campus**



Project Name: Montreat College Black Mountain Campus
Project Number: Z-O-23-23
Project Description: Conditional Zoning Request
Applicant: Montreat College
Parcel ID Number: 0609-93-9480.00000

Location/Address: 191 Vance Avenue



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Josh Henderson, *Recreation & Parks Director* **MEETING DATE:** October 9, 2023

AGENDA SECTION: OLD BUSINESS **DEPARTMENT:** Recreation & Parks

TITLE OF ITEM: Estimates for dugout replacement at Veteran's Park.

SUGGESTED MOTION(S):

Provide staff with guidance for next steps.

SUMMARY:

Estimates were gathered for the renovation of eight dugouts at Veteran's Park. At the September 11, 2023, council meeting, council members requested to have pricing included for backstop replacement in addition to the dugouts. Included in these estimates are dugout fencing replacement, concrete pads, roof replacement, backstop fencing replacement for each of the three baseball/softball fields, and backstop netting.

Estimates (estimates are attached)

Dugout fencing (8 dugouts): **\$32,172.92**

Concrete pads (8 dugouts): **\$19,600**

Roof replacement (8 dugouts):

- Project is completed in-house by Public Works: **\$10,000**
- Project contracted out and completed by a general contractor: **\$43,193**

Backstop fencing replacement (3 fields): **\$117,543.00**

Backstop netting (3 fields): **\$4,656** (netting \$3,456, shipping \$200, and attachment hardware \$1,000)

BUDGET IMPACT: \$183,971.92

This includes: dugout fencing replacement, installation of concrete pads, roof replacement done in-house, backstop replacement for 3 fields, and backstop netting.

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

If no, describe how it will be funded. Budget amendment.

ATTACHMENTS:



ASHEVILLE CONTRACTING CO., INC.
PO BOX 1540
CANDLER, NC 28715
(P) 828-665-8900 (F) 828-665-8902
www.ashevillefence.com
HUB Certified (Woman Owned)

PROPOSAL/CONTRACT

Date: 06/07/2023

CUSTOMER INFORMATION:

Town of Black Mountain

JOB INFORMATION:

Veteran's Park

Dugout Replacement

SCOPE OF WORK:

Remove 8 dugout fences with roof.

Install 8 dugout fences using 9 ga galvanized chain link fence. Each dugout will have one walk gate. Approximate dimensions of new dugouts are 20x10.

Field side of each dugout fence will have new sports cap on fence.

3" CS40 corner posts will be 8' tall out of the ground and can be cut to proper height when others install the roof.

3" CS40 corner and gate posts set in concrete

2 1/2" CS40 line posts

1 5/8" CS40 top rail, bottom rail, and gate frames

Josh Henderson

828-767-0064

joshua.henderson@tobm.org

Approved & Accepted for Customer:

Contract Amount: \$ 32172.92

Down Payment: \$ 14954.93

Balance Due: \$ 17217.99

Credit Card Processing Fee 3% Per Transaction

Customer

Date

ASHEVILLE CONTRACTING CO., INC.:

Salesperson

Date

Quote good for 5 days

MS

James Almquist SP

20 McCoy Drive
Leicester, NC 28748 US
+1 8287123459
jalquist007@gmail.com

Estimate

ADDRESS

Josh Henderson

ESTIMATE 1014
DATE 09/15/2023
EXPIRATION DATE 11/15/2023

DATE	ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
09/15/2023	Hours	For fine grading, formwork, placement and finishing, breakdown and cleanup of eight dugout pads in Veterans Park. Price estimate includes cost of concrete, (thickened in bench areas) pump truck, welded wire mesh, forming materials, and all labor. All fencing and benches to be removed by others. Any excavation or gravel needed for proper subgrade prep to be supplied by public works.	8	2,450.00	19,600.00

Veterans Park / New dugout floor estimate

TOTAL

\$19,600.00

Accepted By

Accepted Date

Dug out Price list

Metal for Frame

2-1/2 x 2-1/2 x 1/8 thick wall- \$3,100

Core drill rental and bit- \$1200

\$25 a Man HR for welding and setup

320 HR- \$8,000

Hauling metal, and dirt off, digging out for concrete

4 guys 320 Man HR - \$8,500

Equipment use-\$3,000

Dump truck-\$1,000

Hauling in road bond

2 guys 80 Man HR- \$2,000

Road Bond- 3 truckloads - \$ 450

Roofing Material

Plywood 3/4-35 pieces

Metal roofing

Under Lament

Roofing Screws

Metal Screws

Total-\$3,943

Labor for Roofing

4 guys-\$12,000

Total Job-\$43,193

In House cost-\$10,000

[HOME](#)[SERVICES ▾](#)[SHOP ▾](#)[WORK](#)[ABOUT ▾](#)[GET QUOTE](#)

SHOPPING CART

Thanks for shopping with Gorilla Netting!



Product	Price	Quantity	Subtotal
 #21 1-7/8" Knotted Nylon Netting, Cut-To-Order - Black Estimated delivery Oct 11th - Oct 17th	\$576.00	- 6 +	\$3,456.00 ×

Length [5 Increments] (ft): 40

Width [5 Increments] (ft): 20

Total Area (sq. ft.): 800

Shipping Information

United States (US) ▾

State ▾

Town / City

ZIP Code

UPDATE TOTALS (SHIPPING)

You may be interested in...



Cart Total: 6 items

Subtotal \$3,456.00

Shipping

Tax
(estimated
for the
United
States (US)) \$0.00

Total \$3,456.00

UPDATE CART

PROCEED TO CHECKOUT



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Jessica Trotman, *Planning Director* **MEETING DATE:** November 13, 2023

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

TITLE OF ITEM: Montreat College Development Agreement Presentation

SUGGESTED MOTION(S):

None.

SUMMARY: A brief presentation of the development agreement request for Montreat College for their Black Mountain campus development.

The Planning Board is required by Town ordinance to review and make comments on the development agreement. The comments are provided below:

- Consider having staff provide a cost of services for police, fire, stormwater, sanitation, and water to serve the college at each phase.
- Consider having the college provide a presentation on the economic impact of the development.
- Consider a PILOT agreement with the college to offset the true service costs to the college campus.
- Consider that the recital on page five indicate that this is not the first college campus in Black Mountain.
- Consider that the recital on bike and pedestrian facilities state that there will be connectivity to Town outside of the campus.
- Consider that the development agreement say and ensure that the Town will incur no financial obligation for the water line expansions.
- Consider that there be a definition of minor and major modifications. A major modification would require re-approval.
- Consider limiting the development agreement to a period between 10 and thirty years instead of fifty years.
- Consider that the recital that no additional traffic will impact streets south of US 70 be reworded to reflect additional college shuttles will use the streets east of the campus through gated entries.

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: None

Montreat College
Development Agreement (Black Mountain Campus)
Between the Town of Black Mountain and Montreat College

Submitted Aug. 1, 2023
(submitted with Conditional District Zoning Map Amendment application)

The Master Plan Notes and Conditions contained in the applicant's Conditional District Zoning Map Amendment application includes the following General Provision:

A. The development on the Campus shall be governed by the Development Agreement between the Town and College, this Master Plan, and the Black Mountain Land Use Code as of the date the Master Plan was submitted to the Town for approval, August 28, 2023 unless modified by the Master Plan or the Development Agreement as they are approved by the Town or the College agrees in writing to a development regulation in effect after August 28, 2023. All uses permitted generally or specially in the Town's Institutional Campus Development District shall be generally permitted and allowed on the Campus as a matter of right.

Section 1.10 (Development Agreements) of the Land Use Code explains that state statute permits a local government to enter into development agreements with developers for projects on property of any size, with the intent of allowing the Town "flexibility in managing large projects which may have a variety of uses and purposes included in a master plan, or which would otherwise not be appropriate for a traditional neighborhood development or other zoning district designation available at the time of the development plan approval." Development agreements provide assurances of vested rights indefinitely, unless the project is to occur over time or in phases in which case a timeframe is specified in the agreement. (Subsection 1.10.1).

Development proposals are to meet local, state and federal requirements addressing building code, fire code, ADA, stormwater and flood hazard prevention, among others. They are to "conform to all adopted town plans, policies, guidelines and manuals, including the comprehensive plan, pedestrian plan and Greenway Master Plan." A development agreement may specify land use intensities, heights, setbacks, floor area, lot sizes and widths, recreation space, parking requirements, impervious surface limitations and other dimensional standards. (Subsection 1.10.2)

Development agreements shall be accompanied by a master plan and the provisions of the development agreement as specifically enumerated and adopted and shall govern the development of the land in accordance with the master plan. (Subsection 1.10.3)

Notable provisions of the submitted Development Agreement:

Recitals

A major driver of the Campus Master Plan and the application for conditional zoning and submission of a development agreement is Montreat College's designation by the National Security Agency and the Department of Homeland Security as a National Center of Academic Excellence in Cyber Defense Education, an outgrowth of the college developing a major degree in cybersecurity. (page 3)

Elevate Black Mountain’s five “Community Vision” elements are highlighted. The five elements are Walkable & Livable, Green & Resilient, Vibrant Economy, Civic Engagement and Connected & Accessible. In addition, the designation of the campus location as “Institutional Campus” on the Future Land Use Map is noted. (page 3)

The College Board of Trustees adopted the Master Plan that’s included with both the conditional zoning application and the Development Agreement on January 27, 2023, after conducting 32 stakeholder engagement sessions. (page 4)

Consistency between *Elevate Black Mountain* and the Campus Master Plan is detailed. (pages 4-6)

An “integrated and joint schedule for development of the Campus and delivery of public water and sewer to the Campus” is detailed in **Exhibit C**. Among the notable provisions in Exhibit C are:

- The “buffer along residential development along the outer boundary of the Campus described in the Campus Master Plan” may not be modified “without the College seeking a minor amendment of the Master Plan.”
- Town water is available to the Campus at Blue Ridge Road, but “water lines should be extended through the Campus and looped back to the Town’s existing water line in Vance Avenue” as a benefit to both the College and system interconnectivity.
- The College and the Town agree to “cooperate, coordinate, and collaborate during development of the Campus to identify funding sources for these water system improvements and to plan, design, and construct them.”
- Noting that the “actual pace of development could be substantially quicker or slower” and that the Campus could possibly not be completely developed before the end of the term of the Development Agreement, the following development schedule is included:

<u>PHASES</u>	<u>ANTICIPATED START</u>	<u>PROJECTED COMPLETION</u>
Phase 1	Jan 2024	Jan 2029
Phase 2	Jan 2029	Jan 2034
Phase 3	Jan 2034	Jan 2039
Phase 4	Jan 2039	Jan 2044
Phase 5	Jan 2044	Jan 2049
Phase 6	Jan 2049	Jan 2054

Exhibit D states the duration of the agreement as **50 years**. Subsequent development agreements may extend the original duration period.

Terms and Conditions (excerpts)

Article 3.1: Campus Development Regulations: If the College changes the Campus Master Plan, the College will submit the revised Campus Master Plan as a revised Exhibit B of this Development Agreement to the Town for review and comment. Approval of the revised Campus Master Plan shall be deemed a minor amendment of the Development Agreement approvable by Town staff.

Article 3.2: Availability of the Town's Water Utility to Serve the Campus: The parties agree to plan together the Water Extension and the Town agrees to include the Water Extension as a project in its Capital Improvement Plan and to collaborate with the College as to planning and funding the Water System Extension.

Article 3.5: Reviewing of Applications and Issuing Development Approvals: The Town shall provide expedited review and approval of all applications and plans submitted by the College requesting Development Approvals for Development of the Campus, including without limitation, zoning, site plan, subdivision, water, site layout, subdivision, and grading and building plans, with an initial response delivered to Campus within no more than two (2) weeks of submittal of each request to the Town.

Article 3.7: Vested Rights to Complete the Campus; Application of Laws and Development Regulations: Except where a State or federal law is adopted after the Effective Date and the law mandates local government enforcement that has a fundamental or retroactive effect on Development or use of the Campus as provided in this Development Agreement or for one of the grounds set forth in the current (as of the Effective Date) version of N.C.G.S. § 160D-108.1(f)(1)(b)-(e), the Campus shall be subject only to the Laws and Development Regulations and policies enacted and applicable to the Campus at the time of the Town's approval of this Development Agreement by adoption of an ordinance (the "Campus Development Law").

Article 3.8: Town Services: The Campus shall enjoy "best nation status" under all rate schedules adopted by the Town from time to time. "Best nation status" means that the rate charged for water and other services provided by the Town service usage, including but not limited to public water, shall be no higher than the lowest usage rate charged by the Town to any utility customer located within or outside the Town's corporate limits.

The following is per the Town Attorney:

Chapter 160D of the North Carolina General Statutes authorizes the Town to form a development agreement. Section 160D-1004 provides that the agreement "... shall be of a reasonable term specified in the agreement." With the development of the proposed college site plan the college can bargain for a "reasonable" term of many years considering the scope of the proposal and the dependence on future financing. Section 160D-1006(b) provides that the Town may (not "must") provide that the development or phases of the development be commenced within a specified period of time, with a requirement that interim completion dates are set at intervals no greater than five years.

Section 160D-1006(e) implies that staff may approve minor modifications of the approved site plan set out in the agreement by stating that "Consideration of a proposed major modification... shall follow the same procedures as required for the initial approval..." That same section allows the definition of "major modification" can be established in the agreement and adopting ordinance.

Section 160D-1007(a) does provide that the laws in effect at the time of execution of the development agreement apply unless the agreement provides that the agreement is subject to subsequently enacted laws. All existing development regulations will apply, but there are health and safety laws that might affect the plan, and some matters, such as the extent of designated flood zones and the construction near and methods of crossing waterways are beyond the Town's control. The landscaping plan, including requirements for the number, types and location of trees, might survive changes in ordinances. Section 160D-108(c) provides that state and federal law may mandate changes to Town regulation and enforcement, and Section 160D-108.1(f) lists situations where the agreement can be amended, including the written consent of the affected landowner(s) along with several reasons that do not require the consent of the property owner(s).

Drafted by and Return to:
Womble Bond Dickinson (US) LLP (JCC)
555 Fayetteville Street, Suite 1100
Raleigh North Carolina 27601

STATE OF NORTH CAROLINA

COUNTY OF BUNCOMBE

**DEVELOPMENT AGREEMENT
(Black Mountain Campus)**

THIS DEVELOPMENT AGREEMENT (“Development Agreement”) is made this ___ day of _____ by and between the **Town of Black Mountain**, a North Carolina municipality, its successors or assigns (“Town”), and **Montreat College**, a North Carolina non-profit corporation, its successors or assigns (“College”) (collectively Town and College are the “Parties” and individually each is a “Party”).

RECITALS:

The Beginnings: The Town and College

WHEREAS, in 1893, the North Carolina General Assembly established the Town and with spectacular views, quaint locally-owned shops and friendly atmosphere, the Town has attracted botanists, artists, hikers, travelers and residents for one-hundred and thirty (130) years; and

WHEREAS, a few miles north of the Town, in 1897, four years after the Town was established, a Congregationalist minister formed the Mountain Retreat Association, and in 1907, the Mountain Retreat Association purchased property which became Montreat, North Carolina (“Montreat”); and

WHEREAS, surrounded by the beauty and tranquility of this part of the Swannanoa Valley, the Mountain Retreat Association, proposed in 1913 that its grounds and facilities be used as a school and in 1916 the College was formed in Montreat with original enrollment of eight (8) students; and

WHEREAS, the College has operated in Montreat and is an independent Christ-centered, liberal arts institution with baccalaureate and master programs that accepts all academically qualified students no matter their background or religious convictions and educates them through intellectual inquiry, spiritual formation and preparation for calling and career; and

WHEREAS, from its beginning, the principal entrance and exit to and from the College's original campus (the "Montreat Campus") has been (and remains) by way of the Town, inextricably linking the Town and the College together; and

WHEREAS, the Town and the College have operated and planned their futures in close proximity, being mindful of each others needs and purposes, for more than a century; and

Establishment of the College's Black Mountain Campus and
the Town's Land Use Planning for the Black Mountain Campus

WHEREAS, the Montreat Campus is forty-three acres (43) and located in a narrow valley with steep slopes that practically and environmentally constrain the College's expansion; and

WHEREAS, planning for its expansion coupled with its desire to expand as close as practically possible to its roots at the Montreat Campus, the College acquired seventy-two (72) acres within the Town in 2001 and thereafter acquired additional land contiguous to the seventy-two (72) acres, having the intent that this assemblage of property would become its future Black Mountain Campus (the "Campus"); and

WHEREAS, the Campus is currently eighty-nine (89) acres located west of the Town's historic Downtown between U.S. Highway 70 and Interstate 40 and east of Blue Ridge Road; and

WHEREAS, the legal description of the Campus is stated on **Exhibit A** of this Development Agreement; and

WHEREAS, in 2010, the Town amended its *Land Use Code* (the "Code") and adopted the Institutional Campus Development Zoning District ("ICD"), and rezoned the Campus to ICD; and

WHEREAS, the Code sets forth that the "purpose and intent" of the ICD zoning district is to allow "for the continued and future use, expansion and new development of academic, religious, government, and similar types of uses" and "to maintain the overall design integrity of the campus or facility setting while minimizing any adverse impacts on the neighboring areas" Code, § 4.7.12.1; and

WHEREAS, in 2015, the College developed a major degree in cybersecurity and, in the same year, developed a multi-million dollar athletic complex serving nine (9) College athletic teams on the Campus; and

WHEREAS, in the fall of 2015, the College began hosting a cybersecurity conference and by 2022 the cybersecurity conference had 400 attendees, evidencing substantial interest in cybersecurity and demonstrating recognition by citizens of the need for cybersecurity in the 21st century to protect every firm's, corporation's, government's, and citizen's information from theft or misuse; and

WHEREAS, in the fall of 2017, the National Security Agency and Department of Homeland Security designated the College as a National Center of Academic Excellence in Cyber Defense Education and the College was the first institution of higher education located in Western North Carolina to earn this designation; and

WHEREAS, in 2019, the Town began its planning process to update its existing comprehensive plan to better guide its planning and development decisions, and in January 2020, the Town began its major community events to engage the community in the Town's comprehensive planning process; and

WHEREAS, the Covid pandemic temporarily interrupted the community engagement process and the engagement process resumed in earnest by September 2020; and

WHEREAS, the Town prepared *Elevate Black Mountain* (the "EBM") in 2020 as its new draft comprehensive plan and its Planning Board reviewed and unanimously recommended approval of the EBM in February 2021; and

WHEREAS, on June 14, 2021 the Town's Town Council held a public hearing to consider adoption of the EBM as the Town's comprehensive plan, closed its public hearing and unimously adopted the EBM as the Town's comprehensive plan; and

WHEREAS, the EBM sets forth five (5) elements of "The Community Vision" as (1) Walkable and Livable, (2) Green and Resilient, (3) Vibrant Economy, (4) Civil Engagement and (5) Connected Accessible; and each element is a separate chapter with specific guidance supported by goals and policies; and

WHEREAS, consistent with zoning the Campus ICD, the EBM designates the Campus' character area as Institutional Campus on its Future Land Use Map *EMB*, p. 21, identifying the urban form and function of Institutional Campus character area including the size and type of buildings and their relationship to streets, the surrounding street and block pattern, parking and access, as well as land uses or types of development *Id.*; and

WHEREAS, specific to the Institutional Campus character area, the EBM describes Institutional Campus as "areas [that] include the continued and future use, expansion and new development of academic, religious, government and similar types in a campus arrangement" and "[t]hese areas should generally maintain the overall design integrity of the campus or facility setting and include a variety of different uses that meet the daily and weekly needs of residents, visitors and workers." *EBM*, p. 27; and

WHEREAS, the EBM further guides that the intent of Institutional Campus is to protect and enhance green space, have low impact development stormwater and green building techniques and pedestrian and bicycle facilities *Id.*; and

WHEREAS, the EBM accomplishes these desired outcomes by recommending buildings in the Institutional Campus character area to have one to four (1-4) stories and unique to the Institutional Campus character area, setting it apart from all other character areas in the EBM, building setbacks, lot width and block lengths should be "varied." *Id.*; and

WHEREAS, the EBM further accomplishes the intent of the Institutional Campus area by guiding that surface parking should be to the side, rear and front, and low impact development stormwater principles should be used Id.; and

The College's Master Planning Process and the Master Plan for the Campus

WHEREAS, approximately a year after the Town adopted the EBM, the College began its master planning process for the entire College, including the Montreat Campus and the Campus; and

WHEREAS, the College conducted thirty-two (32) separate engagement sessions with a variety of stakeholders, including the Town, and based upon the information gathered in these sessions, organized holistically for both campuses five (5) themes that are the guiding principles of the College's master planning and these pillars are: **(1)** Reinforce Revenue Sustainability, **(2)** Protect and Maintain Facilities, **(3)** Strengthen Academic Offerings, **(4)** Enhance a Vibrant Student Culture and **(5)** Connecting the two Campuses; and

WHEREAS, as part of its master planning process, the College gathered data as to classroom utilization, analyzed this data, including benchmarking the College's data with utilization data from North Carolina and South Carolina public universities and community colleges, and based upon its analysis, the College developed several specific conclusions including that the College's Cybersecurity Center should be located on the Campus and when the Cybersecurity Center is operational, the College's current cybersecurity courses, programs and activities should be relocated to the Campus; and

WHEREAS, after gathering information as to the opportunities and constraints of both campuses including available water and sewer utilities and their capacities to serve each campus, the College initiated separate design charrettes for each campus and tested various design scenarios for each campus to develop separate standalone master plans for each campus while integrating infrastructure and design in each master plan to connect the campuses, consistent with guiding principle five (5) of the College's Master Plan – Connecting the Campuses; and

WHEREAS, as the culmination of these studies, on January 27, 2023, the College's Board of Trustees adopted its Master Plan for the Campus, a copy of which is attached as **Exhibit B** of this Development Agreement (the "Campus Master Plan"); and

The Relationship between the EBM and the Campus Master Plan

WHEREAS, the Campus Master Plan restricts uses to uses permitted in the ICD district and therefore the Campus Master Plan is consistent with the ICD zoning and with the EBM; and

WHEREAS, the Campus Master Plan illustrates that buildings will be one to four (1-4) stories in height and therefore the Campus Master Plan is consistent with the ICD and with the EBM; and

WHEREAS, the Campus Master Plan illustrates that building setbacks, lot widths, block lengths will be varied and therefore the Campus Master Plan is consistent with the ICD and with the EBM; and

WHEREAS, the Campus Master Plan illustrates relationships between buildings, uses and improvements that are walkable and livable within the Campus, with active and passive recreational areas while preserving the historic Manor House and therefore the Campus Master Plan is consistent with the ICD and with the EBM, including the EBM's primary guiding principle of Walkable & Livable and aids accomplishing, among other Town goals, EBM Goals 2.4 (Unique community character that celebrates the Town's history, provides gateways, enhances safety, and creates active and exciting places) and 2.6 (An active environment that supports physical activity and healthy living); and

WHEREAS, the Campus Master Plan recognizes that Tomahawk Branch bisects the Campus and the Swannanoa River is adjacent to the Campus along the majority of its western boundary and the Campus Master Plan sets aside substantial areas along these water features as open spaces which will preserve the natural beauty of the Campus and protect and enhance water quality; therefore, the Campus Master Plan is consistent with the ICD and the EBM, including the EBM's primary guiding principle of Green & Resilient and aids accomplishing, among other Town goals, EBM's Goals 3.2 (Conserve green spaces and green corridors that are integrated throughout the Town) and 3.3 (A sustainable and resilient watershed that uses natural approaches to address stormwater); and

WHEREAS, the Campus Master Plan proposes development of the first college campus within the Town and when the Campus is developed, the Campus will promote and enhance the Town's vibrant, innovative economy by (1) adding employment opportunities within the Town, reducing the need of Town citizens to travel for work elsewhere in the Swannanoa Valley and beyond, (2) increasing diversity of employment opportunities within the Town, and (3) adding skill sets and training driven by 21st century technology which is not currently within the Town; therefore, the Campus Master Plan is consistent with the EBM, including its primary guiding principle of Vibrant Economy; and

WHEREAS, while the Campus Master Plan development footprint is modest in size and walkable, the opportunities arising from the Town becoming the home of the Campus in the 21st century are substantial and distinguishes the Town from most towns and communities in North Carolina; and

WHEREAS, because college campuses tend to promote diversity in nearby local economies and draw citizens to nearby communities, and embed skill sets needed for the 21st century, the Campus Master Plan aiding, among other Town goals, EBM Goals 4.1 (A strong, diversified economy) and 4.2 (A competitive workforce); and

WHEREAS, colleges tend to promote innovation and grow arts and culture and the Campus will provide a catalyst which will amplify the Town's tradition of innovation through arts, culture and creativity, aiding accomplishing, among other Town goals, EBM Goal 4.4 (Innovation through arts, culture and creativity); and

WHEREAS, the Campus Master Plan dedicates a new Tomahawk Branch Loop Trail and the College as a Town corporate citizen will have a greater investment in the Town; therefore, the Campus Master Plan is consistent with the EBM, including its primary guiding principle of Civil Engagement aiding, among other Town goals and policies, Goal 5.2 (High quality parks and public

spaces), Policy 5.2.3 (Encourage...dedication of new public spaces in master-planned developments), Goal 5.3 (Excellent public services and facilities) and Policy 5.3.3 (Continue to coordinate with local and regional partners to plan for....transportation, environmental, educational and economic development opportunities); and

WHEREAS, the Campus Master Plan illustrates an overall design integrity of an integrated educational live, work, play community providing pedestrian and bicycle facilities and therefore the Campus Master Plan is consistent with the EBM including its primary guiding principle of Connected & Accessible, aiding, among other Town goals, Goals 6.1 (Multiple safe and realistic transportation mode options for residents) and 6.2 (Non-automotive transportation network); and

WHEREAS, the Campus Master Plan establishes the primary campus entrance away from the Town's Downtown at the new intersection of the Campus' primary vehicular street and Blue Ridge Road; thereby, the Campus does not add daily traffic to the Downtown streets south of State Street (US 70) and connects the Montreat Campus and the Campus by way of US highways (9 & 70) and Blue Ridge Road; and

WHEREAS, the Campus Master Plan is consistent with the EBM, particularly its primary guiding principle of Connected & Accessible, aiding, among other Town goals, Goal 6.4 (An enhanced and user friendly transit network); and

WHEREAS, the College has submitted the Campus Master Plan to the Town for approval as part of a conditional rezoning request of the Campus on July 31, 2023; and

WHEREAS, the Town's Planning Board reviewed and recommended approval of the Campus Master Plan on August 28, 2023; and

WHEREAS, the Town Council scheduled a public hearing to be held on _____ to consider the Campus Master Plan rezoning; and

Authority to form Development Agreements and Purposes of Development Agreements

WHEREAS, in Article 10, Chapter 160D of the North Carolina General Statutes, the North Carolina General Assembly authorizes the Town to form development agreements with developers, finding **(1)** development projects often occur in multiple phases over several years, requiring long-term commitments of both public and private resources; **(2)** these developments often create community impacts and opportunities that are difficult to accommodate within traditional zoning processes; **(3)** because of their scale and duration, these projects often require careful coordination of public capital facilities planning, financing, and construction schedules and phasing of the private development; **(4)** these projects involve substantial commitments of private capital, which developers are usually unwilling to risk without sufficient assurances that development standards will remain stable through the extended period of the development; and **(5)** these developments often permit communities and developers to experiment with different or nontraditional types of development concepts and standards, while still managing impacts on the surrounding areas. N.C. Gen. Stat. § 160D-1001; and

WHEREAS, recognizing the findings made by the General Assembly concerning the value of development agreements, the Town determined that the Campus and the Campus Master Plan

is a project suitable for formation of a development agreement and approved the College's conditional zoning request to allow development of the Campus as illustrated on the Campus Master Plan; and

WHEREAS, in addition to the General Assembly's findings, the Town through its Code provides that "[t]he intent of development agreements is to allow the town board flexibility in managing large projects which may have a variety of uses and purposes." Code § 1.10.1B and "[d]evelopment agreements are also intended to provide assurances of vested rights indefinitely, unless a timeframe is otherwise provided in the development agreement itself, in cases where a project may be constructed over time or in phases." Code § 1.10.1C; and

WHEREAS, the Town finds that forming a development agreement to govern the Campus and the Campus Master Plan is in the Parties' interests because the development agreement will allow for flexibility in managing the Campus and because the Campus Master Plan shows the Campus will have a variety of uses and purposes; and

WHEREAS, the Town finds that establishing a vested right allowing the College to develop the Campus using a single set of Development Regulations and Laws is in the interests of the Parties because the core characteristic of the ICD and the EBM's Institutional Campus Future Land Use is that the Campus should have "overall design integrity;" and

WHEREAS, the Town through its Code provides that "[t]o the extent that the development plan [in a development agreement] does not fall specifically within existing town zoning, the development agreement ordinance will create a new zoning district specifically for the development agreement's planning area" Code § 1.10.2C; and

WHEREAS, in its discretion, the Town Council adopted a procedure for review and approval of development agreements (Code § 1.10.3) and the procedure includes review of a development agreement by the Town's Planning Board for public input and Planning Board comment; and

WHEREAS, on August 28, 2023, the Planning Board held a public meeting concerning this Development Agreement, receiving public input and considering, among other matters, the ICD zoning district and the Campus Master plan, consistency of the Campus Master Plan with adopted town plans and policies; and recommendations for requirements that the Town Council should pursue as part of this Development Agreement; and

WHEREAS, the Planning Board, after closing the public hearing, found that the Campus Master Plan is consistent with the intent of ICD and consistent with the EBM and other applicable plans adopted by the Town; and further found that no new requirements were necessary to achieve the EBM and other Town policies; and

WHEREAS, after making its findings, the Planning Board recommended to the Town Council that this Development Agreement should be formed without new requirements because adoption of this Development Agreement is in the interests of the Town and its citizens; and

WHEREAS, on August 28, 2023, the Town Council reviewed the Planning Board's and Town staff's reports concerning this Development Agreement and set a public hearing concerning this Development Agreement for _____, 2023; and

WHEREAS, on _____, 2023, the Town Council held the public hearing concerning this Development Agreement and after closing the public hearing, the Town Council made the following findings:

1. The Parties recognize that careful coordination and integration of development of the Campus and Campus Master Plan with development of public infrastructure and facilities, including delivery of public water and sewer to the Campus is important and in the public's interest, and therefore the Parties have agreed to the integrated and joint schedule for development of the Campus and delivery of public water and sewer to the Campus which is set forth in **Exhibit C** and made a part hereof by reference.

2. The details concerning the Campus and the Campus Master Plan required by N.C.G.S. § 160D-1006 are set forth in **Exhibit D** and made a part hereof by reference.

3. The development of the Campus will **(A)** occur in multiple phases over several years, requiring a long-term commitment of both public and private resources, **(B)** create community impacts and opportunities difficult to accommodate within traditional zoning processes, **(C)** require careful coordination of public capital facilities planning, financing, and construction schedules and phasing of private development because of their scale, **(D)** involve substantial commitment of private capital and the College is unwilling to risk such private capital without sufficient assurances that the development standards that apply to the Campus remain stable through the extended period of development, and **(E)** forming a development agreement with the College provides better structure and management of the Development Approvals for the Campus and ensure their proper integrations into the Town's capital facilities programs.

4. After careful review and deliberation, the Town Council finds that the Campus constitutes development suitable to be planned and developed through a development agreement as permitted by Article 10 of Chapter 160D of the North Carolina General Statutes and that it is in the Town's interests to enter into this Development Agreement because significant benefits to the Town and its citizens will be realized as a result of the Campus and this Development Agreement.

5. The Town has published notice of, mailed notice of, posted on and near the Campus notice of and has held a public hearing at its Planning Board and Town Council concerning this Development Agreement as required by N.C.G.S. § 160D-1005 and the Code and the Town has otherwise completed all steps, conditions, and requirements necessary for the Town to consider the approval and adoption of this Development Agreement as permitted by law.

WHEREAS, after holding the legislative hearing and carefully considering the terms and conditions of this Development Agreement and its findings, the Town Council duly approves and adopts this Development Agreement as a legislative decision as required by N.C.G.S. §§ 160D-1003 and 1005 and directs its execution by the Mayor and attestation by the Town Clerk.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, and pursuant to North Carolina law and the Code, the Town and the College agree as follows:

TERMS AND CONDITIONS OF THIS DEVELOPMENT AGREEMENT

ARTICLE 1. RECITALS

- 1.1 Incorporation of Recitals. The Parties agree the above Recitals and Findings are true and correct and are incorporated as material terms of this Development Agreement and are binding on the Parties.

ARTICLE 2. DEFINITIONS

In interpreting and constructing this Development Agreement and its incorporated Exhibits, the following capitalized terms shall have the meanings set forth below wherever they appear in this Development Agreement.

- 2.1 *Campus* shall mean the land described in **Exhibit A** of this Development Agreement.
- 2.2 *The Campus Development Law* shall have the meaning defined in Section 3.7 of this Development Agreement.
- 2.3 *Campus Master Plan* shall mean the development plan attached as **Exhibit B** of this Development Agreement.
- 2.4 *Code* shall mean the Town's Land Use Code existing on the Effective Date.
- 2.5 *College* shall mean Montreat College, its successors or assigns.
- 2.6 *Developer* shall mean a person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.
- 2.7 *Development* shall mean the planning for or carrying out of a building activity, the making of a material change in the use or appearance of any structure or property, or the dividing of land into two or more parcels. When appropriate to the context, "development" refers to the planning for or the act of developing or to the result of development. Reference to a specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development. Reference to particular operations is not intended to limit the generality of this term.
- 2.8 *Development Approval* shall mean any administrative or quasi-judicial approval made pursuant to Chapter 160D of the North Carolina General Statutes that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of

appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to Chapter 160D, including plat approvals, permits issued, development agreements entered into, and building permits issued.

- 2.9 *Development Regulation* shall mean any unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to Chapter 160D of the North Carolina General Statutes, or a local act or charter that regulates land use or development.
- 2.10 *Effective Date* shall mean the date this Development Agreement is executed by all Parties after the adoption of an ordinance at the Town approving this Development Agreement by the Town Council. The Town shall sign and deliver the Development Agreement to the College within three (3) calendar days of adopting ordinance approving the Development Agreement for the College to record the Development Agreement at the Buncombe County Register of Deeds. See, N.C.G.S. § 160D-1011.
- 2.11 *Laws* shall mean and include all ordinances, resolutions, regulations, comprehensive plans, land Development Regulations, policies, and rules adopted by the Town affecting the development of real property, and including, without limitation, laws governing permitted uses of real property, density, design, and improvements.
- 2.12 *Registry* means the Buncombe County Register of Deeds.
- 2.13 *State* means the State of North Carolina.
- 2.14 *Town* means the Town of Black Mountain North Carolina, its successors or assigns.

ARTICLE 3. DEVELOPMENT OF THE CAMPUS AND THE CAMPUS MASTER PLAN

- 3.1 Campus Development Regulations: This Development Agreement shall only apply to the Campus. The Campus is zoned ICD conditional zoning district and allows development of the Campus as illustrated on the Campus Master Plan. To the extent there is a conflict between general Development Regulations including the Code's zoning district regulations applicable to the Campus and this Development Agreement, this Development Agreement shall be deemed to have created a new zoning district as provided by the Code in section 1.10.2C and shall control. The College's currently anticipated phasing and schedule for developing the Campus is set forth on Exhibit C; however; the Parties acknowledge that the pace of Development at the Campus will be guided by the principles of the College's master planning: (1) Reinforce Revenue Sustainability, (2) Protect and Maintain Facilities, (3) Strengthen Academic Offerings, (4) Enhance a Vibrant Student Culture, and (5) Connecting the two Campuses and it is likely that the College's master planning will evolve and change over time. If the College changes the Campus Master Plan, the College will submit the revised Campus Master Plan as a revised Exhibit B of this Development Agreement to the Town for review and comment. Approval of the revised Campus Master

Plan shall be deemed a minor amendment of the Development Agreement approvable by Town staff. Upon Town staff approval of any revised Campus Master Plan, an amendment of the Development Agreement deleting the original **Exhibit B** and substituting the amended **Exhibit B** of this Development Agreement will be signed by the Town Manager or the Manager's designee and the College. The College will record such amendments in the Registry.

- 3.2 Availability of the Town's Water Utility to Serve the Campus: The Town owns and operates a municipal water system which includes twelve (12) wells and additionally purchases water from the City of Asheville. The Town's water service is currently available to the Campus by way of a 10-inch water line at the western edge of the Campus in the shoulder of Blue Ridge Road and the Town has sufficient capacity to serve the Campus; however the Parties recognize that as the Campus develops, adequate water pressure and volume will become challenging. The Campus Master Plan includes an internal street system which allows extension of the Town's water line from Blue Ridge Road across the Campus so that the Town's water system is looped and connected with the Town's existing water system located in Vance Avenue (the "Water System Extension"). The Parties agree that timely construction of the Water System Extension, all of which is within the Town's corporate limits, is important to development of the Campus and to improving water service for all Town citizens living near the Campus. Therefore, the Parties agree to plan together the Water Extension and the Town agrees to include the Water Extension as a project in its Capital Improvement Plan and to collaborate with the College as to planning and funding the Water System Extension.
- 3.3 Availability of the Metropolitan Sewerage District to Serve the Campus: The Metropolitan Sewerage District (the "MSD") is a publicly-owned utility organized under Chapter 162, Article 5 (Metropolitan Sewerage Districts) and provides sewer service to the Town. The MSD's sewer service is available to the Campus and the MSD has sufficient capacity to provide full sewer service to the Campus at final build-out of the Campus.
- 3.4 Availability of other Utilities and Services: The Town and College agree to work together to facilitate and encourage that waste water service, natural gas, fiber optics, other telecommunications and electricity are provided to the Campus by others and are of sufficient quality and quantity to permit the Campus to be completed and operated as intended by the College.
- 3.5 Reviewing of applications and Issuing Development Approvals: The College will submit applications for Development Approvals to the Town as provided in section 2.1.4 of the Code for administrative approval and issuing Development Approvals. The Campus Development Law (see, section 3.7) shall apply to review of applications and issuing Development Approvals allowing development of the Campus. The Town shall provide expedited review and approval of all applications and plans submitted by the College requesting Development Approvals for Development of the Campus, including without limitation, zoning, site plan, subdivision, water, site layout, subdivision, and grading and building plans, with an initial response delivered to Campus within no more than two (2) weeks of submittal of each request to the Town.

- 3.6 Cooperation and Assistance: The Town will assist and cooperate with the College in connection with reviews, approvals and permits issued by all local and State governmental agencies and public utilities, such as Duke Energy, Dominion Energy, telecommunications providers, the State of North Carolina, any other local, State or Federal government or governmental agency associated with or important for Development of the Campus. To this end, the Town agrees to grant easements and/or encroachment agreements within its rights-of-way to any of these entities to facilitate extension of such services to the Campus and, may, upon reasonable request, grant easements on the Town's property to these service providers.
- 3.7 Vested Rights to Complete the Campus; Application of Laws and Development Regulations: Except where a State or federal law is adopted after the Effective Date and the law mandates local government enforcement that has a fundamental or retroactive effect on Development or use of the Campus as provided in this Development Agreement or for one of the grounds set forth in the current (as of the Effective Date) version of N.C.G.S. § 160D-108.1(f)(1)(b)-(e), the Campus shall be subject only to the Laws and Development Regulations and policies enacted and applicable to the Campus at the time of the Town's approval of this Development Agreement by adoption of an ordinance (the "Campus Development Law"). Additionally, the College has made substantial expenditures in good faith in reliance upon existing Town laws and policies and this Development Agreement; therefore, no development moratoria shall apply to the College or the Campus in absence of an imminent threat to public health or safety. Laws, rules, regulations or policies enacted, adopted, formed or administered by the Town or any of its boards, commissions, officials or staff subsequent to the adoption of this Development Agreement, including but not limited to, land use, streets, buffers, the division of land, grading, landscaping, water, sewer, stormwater, setbacks, and signage, shall not directly or indirectly be applicable to any aspect of the Campus for a period of fifty (50) years after the Effective Date. As provided in N.C. Gen. Stat. §160D-1007(c), in the event that State or federal law is changed after the Effective Date in such a way that prevents compliance with this Development Agreement by the Town or the College, the Parties will review the terms of this Development Agreement and will work together in good faith to modify the affected provisions to accomplish the intended purpose of this Development Agreement and the economic benefits foreseen by the Parties when they entered into this Development Agreement.
- 3.8 Town Services: The Campus shall enjoy "best nation status" under all rate schedules adopted by the Town from time to time. "Best nation status" means that the rate charged for water and other services provided by the Town service usage, including but not limited to public water, shall be no higher than the lowest usage rate charged by the Town to any utility customer located within or outside the Town's corporate limits.

ARTICLE 4. DEFAULT, CURE PERIODS AND REMEDIES

- 4.1 Default, Cure Periods, Breach, and Remedies: As provided by N.C.G.S. § 160D-1008(d), the Parties have agreed to provide penalties and equitable remedies for breach of this Development Agreement other than the remedy authorized by N.C.G.S. § 160D-1008(c) and N.C.G.S. § 160D-1008(c) does not apply to this Development Agreement.

Subject to Section 6.1 of this Development Agreement (Force Majeure), the failure of either Party to comply with the terms of this Development Agreement shall constitute an “Event of Default” and if such defaulting Party fails to cure its default within thirty (30) days of its receipt of written notice of such Event of Default from the other non-defaulting Party identifying with reasonable particularity the Event of Default, the defaulting Party shall have breached this Development Agreement; provided, however, if such default is not reasonably capable of being cured within thirty (30) days, then the defaulting Party shall not be deemed in breach of this Development Agreement when the defaulting Party has commenced such cure within said thirty (30) day period and thereafter diligently prosecute the same to completion within an additional period not to exceed one hundred twenty (120) days.

Subject to the foregoing notice and cure periods, a breach of this Development Agreement entitles the non-defaulting Party to pursue all remedies available at law or equity, including but not limited to the remedies of specific performance and payment of damages resulting in breach of this Development Agreement; provided however any termination of this Development Agreement shall be limited to the portion of the Campus where such default occurred.

Recognizing the Parties have invested significant resources planning the Campus, and one of the purposes of this Development Agreement is to continue collaboration, cooperation and coordination between the Parties for their benefit and the benefit of the citizens of the Town, the Parties are establishing a process to ensure that all matters of concern or questions arising under this Development Agreement at any time during the Term are discussed between the Parties before such matters or questions rise to an Event of Default. Accordingly, either Party may request an informal business meeting with the other Party at any time during the Term of this Development Agreement. All informal business meetings shall be held at the Town’s offices. The Parties agree that all issues or concerns identified as a potential Event of Default by either Party shall be discussed at least one informal business meeting prior to either Party sending a notice of default. At every informal business meeting, the Town Manager or the Manager’s designee and representatives of the College shall attend. Unless otherwise agreed by the Parties, all business meetings shall be concluded by the end of the day when the meeting began.

Default, cure periods, breach, and remedies for breach of this Development Agreement shall be exclusively governed by this section of the Development Agreement.

ARTICLE 5. RECORDATION, TERM AND AMENDMENT

- 5.1 Recordation of Agreement: Pursuant to N.C.G.S. § 160D-1011, within fourteen (14) days after the Effective Date, the College shall record this Development Agreement in the Registry.
- 5.2 Term: The term of this Development Agreement shall be a period of fifty (50) years beginning on the Effective Date.

- 5.3 Amendment: This Development Agreement may be amended or canceled by mutual written consent of the Parties, their successors or assigns as provided by law. At any time during the term of this Development Agreement, the College acquires land contiguous with the Campus and Town Council rezones such land to ICD or its successor zoning district (whether in one or more parcels, or transactions) (collectively the “Additional Property”), this Development Agreement shall be deemed amended as a minor modification, and shall not be a major modification under N.C.G.S. § 160D-1006(e), and the Town shall execute an amendment of this Development Agreement that includes the Additional Property as the Campus to which this Development Agreement applies and transmit the amendment to the College. Minor modifications are approved by Town staff and the College, and shall be signed by the Parties. The College shall record all such amendments in the Registry.

Consistent with the purposes of this Development Agreement and permitted by N.C.G.S. § 160D-1006(e), at any time during the term of this Agreement any amendment to the times for performance by any Party stated in this Development Agreement shall be deemed to be a minor modification and shall not be a major modification under N.C.G.S. § 160D-1006(e). Minor modifications are approved by Town staff and the College, and shall be signed by the Parties. The College shall record all such amendments in the Registry.

ARTICLE 6. MISCELLANEOUS

- 6.1 Force Majeure: The Parties hereto shall not be liable for any failure to perform hereunder as a result of an external event or events beyond their respective control, including, without limitation, acts of the United States of America, acts of the State of North Carolina, embargos, fire, flood, drought, hurricanes, tornadoes, explosions, acts of God or a public enemy, pandemics, epidemics, strikes, labor disputes, vandalism, or civil riots. However, if any such event interferes with the performance by a Party hereunder, such Party shall diligently and in good faith act to the extent within its power to remedy the circumstances affecting its performance and to complete performance in as timely a manner as is reasonably possible.
- 6.2 Exhibits: The exhibits attached to this Development Agreement are fully incorporated, are material terms of this Development Agreement and shall be binding upon the Parties.
- 6.3 Severability: If any provision of this Development Agreement, or its application to any person, is held to be unenforceable for any reason, it shall be adjusted rather than voided, if possible, in order to accomplish the Parties’ original intent to achieve the economic outcomes they intended to the greatest extent possible. In any event, invalidation of any provision of this Development Agreement, or its application to any person, shall not affect any other provisions of this Development Agreement or its application to any other person or circumstance, and the remaining portions of this Development Agreement shall continue in full force and effect and the Parties shall cooperate to amend this Development Agreement so as to achieve the economic outcomes intended by the Parties when they formed this Development Agreement.
- 6.4 Notice: All notices or other communications required or permitted to be served hereunder shall be deemed served in accordance with this Development Agreement if the notice is:

(a) mailed in a sealed wrapper and deposited in the United States mail, certified mail, return receipt requested, postage prepaid (with delivery conclusively presumed to occur on the third (3rd) business day following such deposit absent evidence of actual failure of delivery) and a courtesy copy delivered via email to the email addresses below; or (b) deposited with a national overnight courier service for next day delivery that retains receipts of its deliveries, properly addressed (with delivery conclusively presumed to occur on the next business day following such deposit absent evidence of actual failure of delivery) and a courtesy copy delivered via email to the email addresses below:

TOWN:

Josh Harrold ICMA-CM, ACIP, CZO
Town Manager
Town of Black Mountain

Physical Address:
106 Midland Avenue
Black Mountain, NC 28711
josh.harrold@tobm.org

with copy to:

Craig Justus
Town Attorney
Town of Black Mountain

Physical Address:
11 N Market Street
Asheville, NC 28801
cjustus@vwlawfirm.com

COLLEGE:

Montreat College
Attn: John Beaghan,
Vice President for Finance & Administration
310 Gaither Circle
Montreat, NC 28757
cfo@montreat.edu

with copy to:

Beth Jones
Womble Bond Dickinson
555 Fayetteville Street
Suite 1100
Raleigh NC 27601
beth.jones@wbd-us.com

The Parties, by written notice given to the other, may designate any further or different names or addresses to which all notices or other communications shall be sent without said further or different names or addresses being considered amendments to this Development Agreement.

- 6.5 Assignment: The College may assign its rights and obligations under this Development Agreement, in part or in whole, to any successor or assign and the College shall be relieved of its covenants, commitments and obligations hereunder, provided that no assignment of a portion of the Campus shall relieve the College of its obligations under this Development Agreement with respect to the portion of the Campus remaining owned by the College. In the event that the College conveys the Campus in its entirety and assigns its rights and obligations hereunder to its successor in title to the Campus, the College shall be relieved of all of its covenants, commitments and obligations established by this Development Agreement.
- 6.6 Run with the Land: This Development Agreement shall run with the Campus and any portion thereof as it may be subdivided or recombined.
- 6.7 Entire Agreement: This Development Agreement contains the entire agreement between the Parties regarding the Development Agreement and all prior or contemporaneous oral or written drafts are merged into this Development Agreement. To the extent a conflict or inconsistency exists between this Development Agreement and any other document related to the Campus that is not merged into this Development Agreement, the provision which most encourages, promotes, and enables Development of the Campus controls.
- 6.8 Multiple Counterparts: This Development Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, and it shall not be necessary in making proof of this Development Agreement to produce or account for more than one such fully executed counterpart.
- 6.9 Applicable Law: This Development Agreement is governed by and shall be construed in accordance with the laws of the State of North Carolina.
- 6.10 Representations and Warranties of the Parties: The Town and the College, and the persons executing this Development Agreement on their behalf, represent and warrant, as applicable, that (a) such Party or person has the full power and authority to enter into this Development Agreement, to execute it on behalf of the Party indicated on the signature

page, and to perform the obligations hereunder, (b) such Party is acting on its own behalf and on behalf of its members, successors and assigns, (c) this Development Agreement is a valid and binding obligation, enforceable against the Parties in accordance with its terms and conditions, (d) entering into this Development Agreement does not conflict with any other agreements entered into by any Party, and (e) execution, delivery and performance of this Development Agreement has been duly and validly authorized by all necessary corporate or governmental action on its part. Specifically (and not as a limitation), the Town represents and warrants to the College that this Development Agreement has been pre-audited to ensure compliance with budgetary accounting requirements (if any) that apply thereto. In the event that any of the obligations of the Town in this Development Agreement constitute debt, the Town has complied, at the time of the obligation to incur the debt and before the debt becomes enforceable against the Town, with any applicable constitutional and statutory procedures for the approval of the debt. Notwithstanding the foregoing, it is not the intent to make any individual person personally liable for the performance or nonperformance of this Development Agreement.

- 6.11 Effect on Other Vested Rights: This Development Agreement does not abrogate any rights established or preserved by law, or that may vest pursuant to common law or otherwise in the absence of this Development Agreement.
- 6.12 Construction: The Parties agree that each Party and its counsel reviewed and revised this Development Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation or construction of this Development Agreement or any amendments or Exhibits hereto. This Development Agreement shall be reasonably interpreted and construed to encourage, promote, and aid the College so that the opportunities and positive community impacts of the Campus are fully realized by the Town, its citizens and the College.
- 6.13 Agreement to Cooperate Regarding Validity of the Development Agreement: Notwithstanding a lack of standing or subject matter jurisdiction, a third person may attempt to initiate a lawsuit challenging the validity of this Development Agreement or any provision thereof. In such an event, the Town and the College agree to cooperate with and assist each other in responding to such litigation and defending the validity of this Development Agreement and any provisions thereof; provided, however, each Party shall retain the right to pursue its own independent legal defense. In the event a third person or persons initiate(s) litigation against the Town concerning Development Approvals or permits, and zonings related to the Campus, the Town consents to the College's intervention but reserves unto itself all rights to determine the Town's strategies and defenses.
- 6.14 No Third-Party Beneficiaries: This Development Agreement is intended for the benefit of the Town and the College only. There are no other third person beneficiaries of this Development Agreement.
- 6.15 Confidential Information: Except to the extent required by applicable law, the Parties shall maintain the confidentiality of any trade secrets or confidential business information the College is required to provide to the Town in connection with this Development Agreement

or Development of the Campus. The College will highlight specific items that it determines to be its trade secrets or confidential business information in a separate attachment identified to the Town or will place such information in a separate attachment identified as “Confidential Business Information.” The Town will notify the College sufficiently in advance of any proposed disclosure of the College’s Confidential Business Information so that the College at its expense, may object to disclosure of such information.

- 6.16 E-verify: The Parties shall comply with the State of North Carolina labor hiring requirements of Article 2 of Chapter 64 of the General Statutes if applicable.
- 6.17 No Agency: Nothing herein shall be construed to mean that either Party is the agent or employee of the other Party.
- 6.18 Headings: All headings that appear after section numbers and section letters in this Development Agreement are included for convenience only and shall not affect the interpretation of this Development Agreement.
- 6.19 Estoppel Certificate: Upon request in writing from the College or its lenders to the Town, the Town will provide a Certificate in recordable form that confirms with respect to the Campus or portion of the Campus described in the request that there are no known violations or breaches of this Development Agreement and the Campus Development Law applies to the land identified in the request. The Town will respond to such request within ten (10) business days of the receipt of the request. If the Town does not respond to such request within said ten (10) day period, the Campus or the portion of the Campus described in the request will be deemed in compliance with all of the covenants and terms of this Development Agreement and the Campus Development Law applies to such land as is described in the request. A Certificate of such conclusion may be recorded in the Registry by the College, including a copy of the request and the notice of receipt, and it shall be binding on the Town. Such notice shall have the same effect as a Certificate issued by a Town under this Section.
- 6.20 No Waiver: No provision contained in this Development Agreement shall be deemed to have been waived, abandoned, or abrogated by reason of failure to enforce such provision as to an event or future events no matter how often failure to enforce may occur.
- 6.21 Lenders: The Town agrees to provide any lender who has recorded a deed of trust or mortgage against all or any portion of the Campus of which the Town has been given notice (each, a “Lender”) with written notice of any default relating to the College and/or the Campus given by the Town to the College. The Town agrees that notwithstanding anything to the contrary contained in this Development Agreement, Lender shall have an additional sixty (60) days from the date Lender receives notice of a default to cure any such default, provided that Lender shall not have any obligation to cure any such default.

{Signature pages follow}

IN WITNESS WHEREOF, the Parties hereto have caused these presents to be executed on the day and year indicated above.

TOWN OF BLACK MOUNTAIN

By: _____
C. Michael Sobol, Mayor
Town of Black Mountain

[TOWN SEAL]

ATTEST:

By: _____
Savannah Parrish, Town Clerk

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, _____, a Notary Public of Buncombe County, North Carolina, do hereby certify that C. Michael Sobol, Mayor of the Town of Black Mountain, a North Carolina municipality, personally came before me this day and acknowledged that he is the Mayor of the Town of Black Mountain, that this Development Agreement has been approved by the Town Council of the Town of Black Mountain by ordinance in accordance with the requirements of Article 10 of Chapter 160D and Town law, that he has been authorized by the Black Mountain Town Council to execute this Development Agreement on behalf of the Town of Black Mountain, that he knows the Corporate Seal of the Town of Black Mountain, that the Town of Black Mountain's Corporate Seal was affixed to this Development Agreement by Savannah Parrish, Town Clerk of the Town of Black Mountain, pursuant to authorization from the Town Council of the Town of Black Mountain, that this Development Agreement is the act and deed of the Town of Black Mountain, and that he acknowledged the due execution of this Development Agreement by him in the aforesaid capacity.

Witness my hand and official seal or stamp, this the ____ day of _____, 2023.

Notary Public

[NOTARY SEAL]

Print Name of Notary

My commission expires: _____

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

Tammy Holland, Town of Black Mountain Finance Director

MONTREAT COLLEGE, a North Carolina
non-profit corporation

By: _____
Name: _____
Title: _____

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, _____, a Notary Public of the County and State aforesaid, certify
that, _____, _____ of Montreat College, a North Carolina non-profit corporation,
personally appeared before me, this day and acknowledged the due execution of this Development
Agreement for the purposes expressed therein.

WITNESS my hand and official seal or stamp, this the ____ day of _____,
2023.

[NOTARY SEAL]

Notary Public

Print Name of Notary

My commission expires: _____



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Jessica Trotman, *Planning Director* **MEETING DATE:** November 13, 2023
AGENDA SECTION: NEW BUSINESS **DEPARTMENT:** Planning
TITLE OF ITEM: Amendments to Chapter 8, Section 8.2, Phase II Stormwater Ordinance
#O-23-21

SUGGESTED MOTION(S):

To adopt **Ordinance #O-23-21** as presented [or as amended] with the following motion:

I move that we approve **Ordinance #O-23-21** to amend Chapter 8, Section 8.2, for Phase II Stormwater ordinance.

SUMMARY:

The updates to the Phase II Stormwater Ordinance include allowing an NCSU Extension certified inspector as an option of a qualified professional for SCM inspections and some minor amendments to the initial part of the ordinance. Staff have previously made this request to the State, because the NCSU extension trained professionals are significantly less expensive than professional engineers. Town staff have continued to make this request, and now with new staff in place at the state level the request has been supported. The State now supports allowing NCSU Extension Certified Inspectors as an option for a qualified professional, in addition to engineers and landscape architects, to perform all annual SCM maintenance inspections.

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-23-21

ORDINANCE #0-23-21

AN ORDINANCE TO AMEND CHAPTER 8, SECTION 8.2 OF APPENDIX A, LAND USE CODE, TO AMEND THE PHASE II STORMWATER ORDINANCE

WHEREAS, the Black Mountain Code of Ordinances was adopted by 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 8, Section 8.2, 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 8.2 The Phase II Stormwater Ordinance

8.2.2 Applicability and jurisdiction of this ordinance.

- A. *General.* Beginning with and subsequent to its effective date, this ordinance shall be applicable to all development and redevelopment occurring ~~in~~ within the corporate limits of the Town of Black Mountain, unless exempt pursuant to section 8.2.2(C) of this section, exemptions.
- B. *Activity threshold requiring a stormwater permit.* A stormwater permit is required for any development and redevelopment which results in ~~a~~ an increases ~~s~~ of impervious surface area by a net amount of 5,000 square feet or more. Projects developed under a common plan adding ~~creating more than~~ 5,000 square feet or more of impervious surface, regardless of the number of parcels included in the plan, requires a stormwater permit.

All phased developments must achieve post-construction requirements at the completion of each phase unless otherwise approved by the stormwater administrator.

- C. *Exemptions.*
 - a. Activities that are exempt from permit requirements of Section 404 of the federal Clean Water Act as specified in 40 CFR 232 (primarily, ongoing farming and forestry activities) are exempt from the provisions of this ordinance.
 - b. Development which ~~cumulatively disturbs~~ adds less than 5,000 square feet of impervious surface ~~land~~ and is not part of a larger common plan of development does not require a stormwater permit.

8.2.18 General standards for maintenance of SCMs.

- A. *Function of SMCs as intended.* The owner of each structural SCM installed pursuant to this ordinance shall maintain and operate the device(s) in accordance with the approved Operation and Maintenance Plan to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the structural SCM was designed.

- B. *Single family and duplex maintenance inspection and report.* SCMs installed to meet the needs of this ordinance shall submit to the stormwater administrator an inspection report every three years from either a **NC State University (NCSU) Cooperative Extension Certified Stormwater SCM Inspection & Maintenance Inspector**, NC professional engineer or landscape architect. The inspection report shall contain all of the following:
- a. The name and address of the landowner;
 - b. The recorded book and page number of the lot of each structural SCM;
 - c. A statement that an inspection was made of all structural SCMs;
 - d. The date the inspection was made;
 - e. A statement that all inspected structural SCMs are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this ordinance; and
 - f. The original signature of the **NCSU Cooperative Extension Certified Stormwater SCM Inspection & Maintenance Inspector**, NC professional engineer or landscape architect.
- C. *Residential developments and commercial properties annual maintenance inspection and report.* The person responsible for maintenance of any structural SCM installed pursuant to this ordinance shall submit to the stormwater administrator an inspection report from either a NCSU Cooperative Extension Certified Stormwater SCM Inspection & Maintenance Inspector, NC professional engineer or landscape architect. The inspection report shall contain all of the following:
- a. The name and address of the landowner;
 - b. The recorded book and page number of the lot of each structural SCM;
 - c. A statement that an inspection was made of all structural SCMs;
 - d. The date the inspection was made;
 - e. A statement that all inspected structural SCMs are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this ordinance; and
 - f. The original signature and seal of the **NCSU Cooperative Extension Certified Stormwater SCM Inspection & Maintenance Inspector**, NC professional engineer, ~~surveyor~~, or landscape architect.

All inspection reports shall be on forms supplied by the stormwater administrator. An original inspection report shall be provided to the stormwater administrator beginning one year from the date of as-built certification and ~~;~~ annually thereafter.

8.2.19 Operation and maintenance agreement.

- A. In general. Prior to the conveyance or transfer of any lot or building site to be served by a structural SCM pursuant to this ordinance, an prior to issuance of any permit for development or redevelopment requiring a structural SCM pursuant to this ordinance, the applicant or owner of the site must execute an operation and maintenance agreement that shall be binding on all subsequent owners of the site, portions of the site, and lots or parcels served by the structural SCM. Until the transference of all property, sites, or lots served by the structural SCM, the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement.

The operation and maintenance agreement shall require the owner or owners to maintain, repair and, if necessary, reconstruct the structural SCM, and shall state the terms, conditions, and schedule of maintenance of the structural SCM. In addition, it shall grant to the Town of Black Mountain a right of entry in the event that the stormwater administrator has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the structural SCM; however, in no case shall the right of entry, of itself, confer an obligation on Town of Black Mountain to assume responsibility for the structural SCM. The operation and maintenance agreement must be approved by the stormwater administrator prior to plan approval, and it shall be referenced on the final plat and shall be recorded with the county registered of deeds up on final plat approval. A copy of the recorded maintenance agreement shall be given to the stormwater administrator within 14 days following its recordation.

The Operation & Maintenance Agreement must be recorded with the Buncombe County Register of Deeds prior to issuance of Certificate of Occupancy.

8.2.22 Notice to owners.

- A. *Deed recordation and indications on plat.* The applicable operations and maintenance agreement, conservation easement, or dedication and acceptance into public maintenance (whichever is applicable), pertaining to every structural SCM shall be referenced on the final plat and shall be recorded with the county registered of deeds upon final plat approval. If no subdivision plat is recorded for the site, then the operations and maintenance agreement, conservation easement, or dedication and acceptance into public maintenance, whichever is applicable, shall be recorded with the county register of deeds so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles.

The Operation & Maintenance Agreement must be recorded with the Buncombe County Register of Deeds prior to issuance of Certificate of Occupancy.

READ, APPROVED AND ADOPTED, by a vote of _____ to _____ on this the 13th day of November 2023.

C. Michael Sobol, Mayor

ATTEST:

Wesley Barker, Town Clerk



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Josh Henderson, *Director* **MEETING DATE:** November 13, 2023

AGENDA SECTION: NEW BUSINESS **DEPARTMENT:** Parks & Recreation

TITLE OF ITEM: Art in the Afternoon Building Renovation – *Josh Henderson, Director*

SUGGESTED MOTION(S):

SUMMARY: Art in the Afternoon would like to request removal of a knee wall in one of their classrooms. They intend to perform the work at no cost to the Town.

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: Letter and picture

Request to make changes to 101 Carver Ave. Annex Sept 29, 2023

Art in the Afternoon is an afterschool art program that has been renting at The Carver Center since 2008. We are so grateful for the space and trust!

The annex space we have been renting since 2011 used to be a pre-school many years ago. There are lots of divided areas that were designed for toddlers and babies. The space is now occupied with elementary aged kids who need more room to move around.

One area in particular used to be a bathroom and is no longer a bathroom but rather a sectioned off area of a former kitchen. The half wall that once separated the toilets is still in place. We are requesting to remove the wall to make room for work tables. This is our first request to make a change in 16 years. This will be an improvement to the space, and we will pay for all of the costs associated with the small renovation.

~Stephanie Bly
Director, Art in the Afternoon

Our process will be as follows:

I (Katy Elmore, assistant director) have experience renovating apartments and houses and feel confident this project will enhance the space creating more usable square footage and a more aesthetically pleasing space.

Our plan is to carefully take the wall apart in order to save any material that could be repurposed. We will remove all of the debris from the space. We will be able to put down new flooring in the entire room.

As with any renovation project, we realize that complications could arise. Anything that we did not expect, will be our full financial and labor responsibility.

Thank you for considering,

Stephanie Bly and Katy Elmore
Art in the Afternoon





TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Josh Harrold, *Town Manager* **MEETING DATE:** November 13, 2023

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

TITLE OF ITEM: Duke Progress Easement – *Josh Harrold, Town Manager*

SUGGESTED MOTION(S):

SUMMARY: Duke Progress is updating utility poles throughout the town. They have reached out regarding an easement on State Street at Town Square to place a guy wire for the utility pole. My recommendation is for Duke Progress to use existing sidewalk for guy wire and not extend guy wire into Town Square.

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: Easement & Map



► Measure Tools

061936254000000

112 E STATE ST, BLACK MOUNTAIN
WO: 48991269

ADD EITHER A POLE W/ DOWN
GUY OR SIDEWALK GUY

SEC SPAN
ACROSS RD TO
ATT POLE





TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Josh Harrold, *Town Manager* **MEETING DATE:** November 13, 2023

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

TITLE OF ITEM: Library Lease (one -year) – *Josh Harrold, Town Manager*

SUGGESTED MOTION(S):

SUMMARY: The lease agreement between the Town and Buncombe County for the Black Mountain Library needs to be updated. Ron Sneed, former Town Attorney, has put together the lease. The biggest change is the County will now pay the Town \$5,000/year for the lease. In turn, we will be responsible for minor repairs. Buncombe County has agreed to the language in this lease.

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: Lease

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

LEASE AGREEMENT
Black Mountain Library

THIS AGREEMENT FOR LEASE OF REAL PROPERTY (referred to sometimes herein as the "Agreement"), is made and entered into this ____ day of _____, 20____ by and between **THE TOWN OF BLACK MOUNTAIN**, a body politic and corporate organized and existing under the laws of the State of North Carolina (hereinafter, sometimes, referred to as the "Lessor"), and **BUNCOMBE COUNTY**, a body politic and corporate organized and existing under the laws of the State of North Carolina (hereinafter, sometimes, referred to as the "County") (Lessor and County are collectively referred to hereinafter, sometimes, as the "Parties").

WITNESSETH:

WHEREAS; Lessor is the owner of a certain tract or parcel of land and building improvements located at 105 N. Dougherty St., Black Mountain, NC 28711, (hereinafter, sometimes, the "Property,"). Said Property is identified in **Exhibit A**, which is attached hereto and incorporated herein, with a turquoise outline, and is more particularly described in a deed recorded in Book 932, Page 447 of the Buncombe County, NC Registry. The Property is also shown on the records of the Buncombe County Tax Office as PIN: 0619-25-5681; and

WHEREAS: The Property consists of four distinct parts, which are the library itself, which is the eastern portion of the building housing the actual library, the meeting room at the western end of the building commonly referred to as the education room, the paved parking area and the grassy area at the west end of the parcel; and

WHEREAS; Lessor desires to lease the building located on the Property (hereinafter, sometimes, the "Premises," identified in **Exhibit A**, with a yellow outline) to County and County desires to lease said Premises from Lessor upon the covenants, conditions and provisions herein set forth.

NOW THEREFORE, in consideration of the mutual promises herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by and between the Parties as follows:

1. Use of Premises

During the scheduled business hours of the library, tThe Premises shall be used by Lessee for the operation of the Black Mountain Public Library Branch of the Buncombe County Public Library System and for any other, lawful, library-related purposes, and, with the exception of the education room, shall not be used by Lessee for any other purpose without prior written consent of Lessor, which shall not be unreasonably withheld. For the purposes of this Lease, "library-related purposes" shall be broadly construed. The education room may be used by others and

other groups as approved by the Lessor when it is not in use for library purposes, even during the scheduled business hours of the library.

Lessor may use the Property and/or the Premises at times when the Library is closed for business and the Lessee does not require the use of the same. Lessor promises that such use will not interfere with the Lessee's enjoyment of the Property and/or the Premises and/or library activities. Lessor must schedule such use sufficiently in advance with the Lessee (through the Black Mountain Library Branch Manager) and the Lessee may deny such use if, in the reasonable determination of the Lessee, such use would interfere with the Lessee's library activities; provided however, that the education room shall also be available for use by Lessor during regular hours of the library at any time for any use that does not conflict with the use by Lessee, for activities scheduled by the Lessee or disrupt the normal library operations.

2. Access to Property and Parking.

Lessee shall be allowed to use the existing right of ways (i.e. roads, driveways, etc.) existing on the Property as may be reasonably necessary to access the Leased Premises. Additionally, Lessor grants to Lessee and its guests the ~~exclusive~~ right to use the existing parking areas on the Property, for parking and any other library-related purposes. Lessor shall remain responsible for maintenance and repair of said right of ways and parking areas, including but not limited to, the removal of snow and ice from the right of ways, parking areas, and sidewalks on the Property. There is an electric vehicle charging station in the parking area that is not limited to use only by library patrons.

3. Use of Grassy Area.

Lessor shall retain use and control of the grassy area at the west end of the parcel at all times, and may allow such activities within that grassy area as it deems appropriate and of benefit to the community, and the parking on the parcel shall be available at all times for visitors participating in the activities in the grassy area.

3.4. Term

The term of this Lease shall begin on the date first written above and shall continue for one (1) year, ending at 12:59:59 p.m. on its first anniversary date (the "Term")

4.5. Termination

Either party may terminate this Lease for any reason, or for no reason, upon thirty (30) days' written notice to the other Party.

5.6. Rent

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Font color: Black

The rent payable by County to Lessor for the Term shall Five Thousand Dollars (\$5,000.00) per year, with the first annual payment being due on the first day of the month following approval and execution of this agreement by all parties, and shall be paid on the same date each year for five years, at which time this amount may be subject to renegotiation in light of repair expenses of the Lessor in accordance with Section 11~~be non-monetary. The Parties agree that that the mutual agreements herein, including the County's promise to operate a library at the Premises in exchange for permission to possess the Property and Premises, constitutes adequate rent.~~

6-7. Assignment

Lessee shall not have the right to assign this lease or to sublet the Premises in whole or in part, without the prior written consent of the Lessor.

7-8. Compliance with Legal Requirement

The Parties shall comply with all legal applicable requirements of city, county, state and federal governments and all subdivisions thereof respecting any operation conducted or any equipment, installations or other property placed upon, in or about the Premises. Neither Party shall create and/or permit the creation of any nuisance upon, in or about the Premises, nor make any other offensive use thereof.

8-9. Utilities

Lessee shall pay for all electricity, gas, oil, water and other utilities consumed or used on the Premises.

9-10. Structural Additions, Alterations, Changes and Improvements

Lessee shall not make, and shall not have the right to make structural alterations, changes or improvements (including, but not limited to, paving repairs or additions), in or to the Premises without Lessor's prior written consent, which shall not be unreasonably withheld. If such consent is given, structural alterations, changes, and improvements, unless agreed otherwise, shall become the property of the Lessor at the termination of this Lease Agreement.

10-11. Repairs and Maintenance

Lessor shall, at Lessor's own expense, maintain the exterior and structural portions of the Premises and the Property, including the roof and exterior walls, heating and air conditioning equipment, and plumbing within the Premises and on the Property. Routine repair and minor maintenance items shall be the responsibility of the Lessor in consideration of the rent being paid by Lessee. Monetary rent is being paid to Lessor by Lessee in consideration of Lessee being relieved of the obligation to make minor repairs it had undertaken in its prior arrangement with the Lessor. ~~Lessee shall report any and all repair and maintenance issues expected to cost in~~

~~excess of one thousand dollars \$1,000.00 to repair or replace exceeding the routine and minor threshold to Lessor and Lessor agrees to resolves such matters in a timely manner.~~

~~11.12.~~ Safe and Sanitary Condition

Lessee shall not permit, allow or cause any act or deed to be performed upon, in or about the Premises which shall cause or be likely to cause injury to any person or to the Premises or property. Lessee shall at all times keep the Premises in a neat and orderly condition and shall keep the Premises and the entryways, parking areas, sidewalks and delivery areas adjoining the Premises neat, clean and free from vegetation, rubbish, and dirt. Lessor is responsible for the removal of snow and/or ice from the Property, including the parking area and all sidewalks, and agrees to salt the sidewalks prior to anticipated snow and/or ice events and to remove such snow and/or ice as soon as practicable and, in any event, prior to Library's next scheduled opening.

~~12.13.~~ Trade Fixtures and Equipment

Lessee shall be permitted to install equipment and trade fixtures on the Premises. In addition, Lessee shall be permitted to remove said equipment and trade fixtures from the Premises upon the termination of this Lease Agreement if Lessee is not then in default hereunder; provided that if the Lessee does so remove such equipment and trade fixtures, Lessee shall return the Premises to the same condition in which they existed at the date of this lease, ordinary wear and tear excepted.

With the exception of the equipment and/or personal property listed on **Exhibit B** attached hereto, any and all equipment and/or personal property currently existing on the Property and/or in or on the Premises belongs to the Lessee. Any personal property kept in or on the Premises or the Property by the Lessor shall be at the sole risk and hazard of Lessor and no part of loss or damages to such personal property from whatever cause shall be the responsibility of, charged to, or borne by the Lessee.

~~13.14.~~ Donated Property

Equipment and/or property donated to the Lessee, the Black Mountain Library, and/or the Buncombe County Public Library System by the Lessor or any other party shall become the property of the Lessee, which property must be used for a public purpose or otherwise handled in accordance with North Carolina law. Lessee agrees to endeavor to use such donated property in such a manner as to primarily benefit the Black Mountain Public Library Branch of the Buncombe County Public Library System.

~~14.15.~~ Inspection

Lessor shall have the right at all reasonable times to enter and inspect the Premises upon reasonable notice to the Lessee.

~~15,16.~~ Conditions of Premises Upon Termination

Upon the termination of this Lease Agreement Lessee shall return the Premises to Lessor substantially in the same condition as on the date hereof, loss by Acts of God and ordinary wear and tear excepted.

~~16,17.~~ Binding Effect

The terms, covenants, conditions and agreements herein contained shall be binding upon and inure to the benefit of and shall be enforceable by Lessor and Lessee and by their respective heirs, successors and assigns.

~~17,18.~~ Notices and Written Consents

All notices and written consents required under this Lease Agreement shall be deemed properly served when posted by certified United States mail, postage prepaid return receipt requested, addressed to the party to whom directed at the following address or at such other address as may be from time to time designated in writing:

To Lessor: Black Mountain Town Manager
 160 Midland Avenue
 Black Mountain, NC 28711

To Lessee: Asheville-Buncombe Library System Director
 Administrative Offices
 67 Haywood Street

With Copy to:

Black Mountain Library Branch Manager
105 N. Dougherty Street
Black Mountain, NC 28711

~~18,19.~~ Covenant of Title and Quiet Enjoyment

Lessor covenants and warrants to Lessee that Lessor has full right and lawful authority to enter into this Lease for the term hereof and that provided Lessee is not in default hereunder, Lessee's quiet and peaceable enjoyment of the Premises shall not be disturbed by anyone claiming through Lessor.

~~19,20.~~ GASB 87.

Lessor and Lessee agree to abide by the Government Accounting Standards Board (GASB) lease accounting standards for governments following GASB accounting standards (GASB Lease Rules) issued in June 2017. The parties acknowledge that GASB 87 accounting standards will be effective for reporting periods beginning December 15, 2019. The parties will also provide a copy of this Lease to their respective accounting professionals.

20.21. Reasonable Actions

Lessor and Lessee shall both act reasonably in regard to all duties and responsibilities contained herein.

In Witness Whereof, the Parties have caused the due execution of the foregoing instrument by their authorized representatives as of the date and year first written above:

Town of Black Mountain (Lessor)

Buncombe County (Lessee)

By: _____
(Signature)

By: _____
(Signature)

(Printed Name)

(Printed Name)

(Title)

(Title)

(Date)

(Date)

Exhibit A

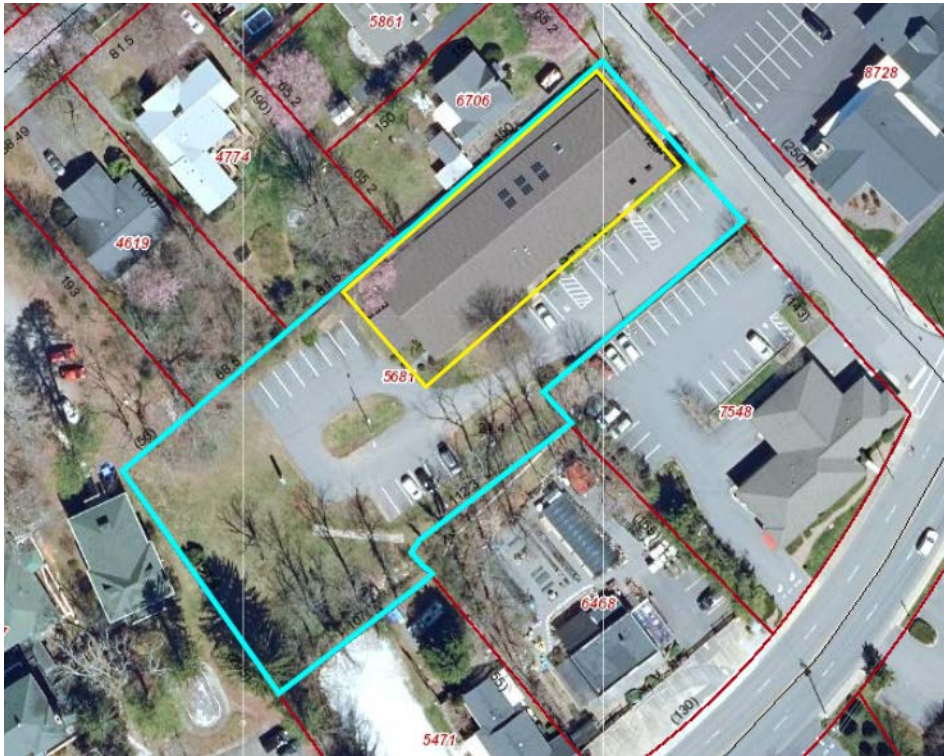


Exhibit B

List of Lessor's Equipment/Personal Property
on the Property and/or the Premises



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Josh Henderson, *Recreation & Parks Director*

MEETING DATE: November 13, 2023

AGENDA SECTION: NEW BUSINESS

DEPARTMENT: Recreation & Parks

TITLE OF ITEM: Lakeview Center Rental Deposit Increase

SUGGESTED MOTION(S):

To approve as presented.

SUMMARY:

The Lakeview Center serves as the home for Active Aging Adult programming in our community and also doubles as a rental facility in the evenings and weekends, most often rented by community members for small parties and events. As part of the rental process, renters are charged a rental fee for the facility and a refundable deposit. The rental deposit is charged for the purpose of ensuring that the facility is well taken care of, that keys to the facility are returned in a timely manner, and that the stipulations of the rental contract are upheld by individuals renting the facility. In most cases, as long as those terms are met, the deposit is refunded. However, there are cases where full deposits or a portion of the deposit are retained due to damage to the facility, keys not being returned, or conditions of the rental contract being broken. In 2022, there were 12 such cases where deposits were retained, compared to none in 2021, two in 2020, and two in 2019. Damage to the facility not only costs the town money, but also delays or cancels Active Aging Adult programming which is the primary use for this facility.

Since 2019 the deposit amount has been \$100 for town residents and \$200 for non-residents. Due to the increasing amount of retained deposits and ongoing mistreatment and disrespect of the facility, staff are requesting that the rental deposit be increased to \$500 for both residents and non-residents.

BUDGET IMPACT: N/A

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

If no, describe how it will be funded.

ATTACHMENTS:

- Rental notes and data
- List of rental deposits retained

- **Red flag renter list**
- **Rental contract, renter info sheet, and cleaning checklist**
- **Examples of past damages**

Lakeview Center Rentals

- Growing trend of mistreatment and disrespect of Town facility by renters.
- When messes are left or the facility is not reset according to the contract this puts a strain on the cleaning service which in turn costs the town in hours paid.
- Damages to facility cause a delay or cancellation in Active Aging services, programs, and the meal-site.
- Ongoing mistreatment does not allow the Active Aging Adult programs to have a well-maintained, up-to-date facility.
- When damages occur or rental contract is not upheld by the renter and a deposit or portion of a deposit is retained, renters are contacted to provide rationale, often resulting in disputes. A solution to this issue would be installing cameras inside the Lakeview Center to further protect the Town when issues occur. Cost of installing cameras estimated at \$5,300 (most recent quote is attached).

Revenues & Rentals

2019
• Clubhouse: \$27,108 (108)
• Downstairs: \$4,560 (65)
2020 (COVID)
• Clubhouse: \$6,460 (13)
• Downstairs: \$1,140 (5)
2021
• Clubhouse: \$13,780 (30)
• Downstairs: \$2,800 (10)
2022
• Clubhouse: \$22,080 (68)
• Downstairs: \$5,320 (20)
2023
• Clubhouse: \$19,301 (52) <i>*as of 10/19/2023</i>
• Downstairs: \$2,258 (9) <i>*as of 10/19/2023</i>

Renter Issues/Deposits Held

**See attachments*

2019: 2
2020: 2
2021: 0
2022: 12
2023: 4 (as of 10/11/23)

- Do not rent list: 14 individuals

TOBM Deposit Amounts (by fiscal year)

FY 19-20: \$100 res, \$200 non-res

FY 20-21: \$100 res, \$200 non-res

FY 21-22: \$100 res, \$200 non-res

FY 22-23: \$100 res, \$200 non-res

Other Local Municipalities Deposit Amounts

**These rates are for comparable facilities*

Woodfin: \$525

Woodfin Community Center

The Town of Woodfin took over management of the Woodfin Community Center in 2007.

Located at 23 Community Road, the Community Center contains a full kitchen, a small stage, seating and tables for more than 200 guests as well as restroom facilities. The Woodfin Community Center is available for rent by the day. In order to inspect or make arrangements to rent the facility please call Town Hall. The community center does not have Wi-Fi.

The facility has 10 8-foot tables, 2 6-foot tables, 20 4-foot tables more than 250 chairs available for using when you rent the facility.



The daily fee to rent the community center is:

Rental Fee	\$265
Rental Deposit	\$525
Rental Total	\$790

Effective 12/08/2022: Alcohol is no longer permitted at any rental at a Town facility, including the Community Center.

Weaverville: \$200/\$500

- Community Center Kitchen \$200
- Community Center Large Room \$300

Old Fort Depot: \$150

TOWN OF OLD FORT
RULES AND REGULATIONS
FOR THE
OLD FORT DEPOT COMMON ROOM

The Old Fort Depot Common Room is owned and operated by the Town of Old Fort. It is available to civic groups, organizations, and individuals needing a place to meet.

DAYS OF OPERATION

The Old Fort Depot Common Room is available to be scheduled for use seven (7) days a week.

HOURS OF OPERATION

The Old Fort Depot Common Room may be opened as early as one desires; however, it is requested that the person or persons using the building be out by 12:00 Midnight.

RENTAL COST

The Old Fort Depot Common Room will be rented at the following cost schedule:

Depot Rental	\$150.00
Depot Deposit	\$100.00

Marion: \$350

**A VALID CREDIT CARD GUARANTEE IS REQUIRED FOR ALL FACILITY
RENTALS UNLESS SPECIFICALLY EXEMPTED**

Community Building and Community Building Basement Rental Rates
(effective July 1, 2022)

Per Day, Per Event Charge:	
Main or Street Level:	
Kitchen and Assembly Room	\$350
Basement with Kitchen	\$175
Fee for Use of Audio System (Excludes Civic Clubs and Not-for-Profit Organizations)	\$75
One-half Day (Immediately Preceding Day of Event)	
To Be Reserved No Earlier Than Two Weeks Prior to Event	\$75
Deposit for Each Use:	
Deposits Must Be Made at Least 30 Days in Advance of Event to Avoid Cancellation	\$350
Civic Clubs and Not-for-Profit Organizations Authorized by the City Council to Use the Building on a Regular Schedule and at a Special Rate	\$40
Girl Scout Room:	
Per Day, Per Event Charge	\$50
Deposit for Each Use:	
Deposits Must Be Made at Least 30 Days in Advance of Event to Avoid Cancellation	\$25

City of Asheville: \$100

- No specifics on website

Henderson County: \$125

Waynesville: No deposit



Rental Information



Multipurpose Rooms

Item	Res / Non-Res	Capacity	Location
One Multipurpose Room	\$75 / \$90	58	WRC
Kitchen plus one room	\$150 / \$175	58	WRC
Kitchen plus two rooms	\$220 / \$250	130	WRC
Cafeteria	\$100 / \$150	125	OA

Rentable for
two hours at a time.

Picnic Shelters

Item	Location	Res / Non-Res
Bi-Lo Shelter	Recreation Park	\$80 / \$100
East Street Shelter	East Street Park	\$80 / \$100
Vance Street Shelter	Vance Street Park	\$80 / \$100
Chestnut Park Shelter	Chestnut Park	\$80 / \$100
Obama-King Park Shelter	Obama-King Park	\$80 / \$100

Rentable for the following
blocks of time:
8 am to 12 noon / 1 to 5 pm

Softball Fields

Item	Cost for all day: Res / Non-Res	Cost per night only: Res / Non-Res	Location
Vance Street Field	\$200 / \$225	\$100 / \$125	Vance Street Park

Gymnasium

Item	Space	Res / Non-Res	Capacity	Location
WRC Gym	Half of gym	\$100 / \$125	354	WRC
WRC Gym	Full gym	\$150 / \$200	709	WRC
Custom Rental Per Estimate		\$250 / \$300		
Old Armory Gym Full gym		\$84	300	Armory
(maximum for 24 hour period)				
Table Rental		\$7 per table		

Rentable for the following blocks of time:
10 am to 12 noon / 1 to 3 pm / 4 to 6 pm
(applicable to the building operating hours
for that day)

RED FLAG RENTERS - Renters who have caused problems or issues. Up to staff to re-rent to them.

Name:	Date of Event:	Facility (s)	Issue With Rental:	Amount of Dep Returned
[REDACTED]	9/6-7/2019	Clubhouse	Used duct tape, put holes in walls	half
[REDACTED]	9/28/2019	Clubhouse	Opened all windows, signs say not to. Went into facility a day before event date.	none
[REDACTED]	10/5/2019	Clubhouse	Damaged walls, paint pulled from walls.	none
[REDACTED]	1/4/2020	Lakeview Downstairs	Loud music, disturbed upstairs rental. BMRP staff had to go and call cops. Entered building day before rental.	none
[REDACTED]	3/26/2022	Clubhouse	Trash left in bathrooms, both back doors unlocked. Tables left undone.	half
[REDACTED]	4/2/2022	Clubhouse	Entered day before event, rude to staff, left food and trash over night, entered on Sun, past event time.	half
[REDACTED]	4/10/2022	Clubhouse	Left trash in cans and outside, opened windows, tables not put back	half
[REDACTED]	4/16/2022	Clubhouse	Entered 2 days prior to event date, BMRP Director had to ask them to leave, left trash, back doors unlocked	none
[REDACTED]	4/30/2022	Clubhouse	Did not return key, key packet, cleaning checklist. Side door left unlocked, food on walls	half
[REDACTED]	6/25/2022	Clubhouse	Left food and personal items behind after rental hours. Pictures with contract. Entered after rental hours to retrieve items.	half
[REDACTED]	10/9/2022	Clubhouse	Tables not reset, children from party running on tennis courts, beach ball thrown in pool, left messy	half
[REDACTED]	3/12/2023	Clubhouse	Gave us wrong contact info, did not follow rental instructions, left food in sink that resulted in ants everywhere.	Gave Deposit back but said they cannot rent from us again.
[REDACTED]	3/26/2023	Clubhouse	Did not clean space, did not put tables back, left food on floor and walls. Opened 3 windows, deck doors left unlocked. Took cleaners an extra hour to clean space.	none
[REDACTED]	5/13/2023	Clubhouse	Removed ballard, damaged ballard base, lost bolts holding in down. Blocked path with undisclosed food truck and dj truck.	none
[REDACTED]	8/5/2023	Clubhouse	Tables not reset, candy smashed into floor, inside & outside. Suckers attached to pool fence. Beer cans and solo cups left in grass around LV.	none

RENTAL DEPOSITS RETAINED 2019 - 2023

DATE	NAME	FACILITY	AMOUNT RETAINED	REASON	NOTES:
9/6/2019		Club	\$50.00	Entered facility a day early, Opened windows, removed paint on walls	Staff had to asked her to leave, staff had to close windows, had to repaint walls.
10/15/2019		Club	\$50.00	Damage to walls, paint removed from walls	Walls were just painted
1/4/2020		LV Down	\$50.00	Noise complaint made by upstairs rental regarding music volume from downstairs rental	Upstairs rental called Rec staff with noise complaint, Rec Staff showed up then had to call BMPD for help
2/22/2020		Club	\$100.00	Left all belongings in space until next morning. Rec staff had to call them to remove items.	Rec staff had to call rental, did not reach them for an hour. Took them an hour to show up, were unkind.
1/22/2022		Club	\$100.00	Left personal items after rental times, did not clean bathrooms, deck doors left unlocked	Renter did not pick up personal items until 2pm next day. Cleaner could not clean due to large personal items
3/28/2022		Club	\$100.00	left trash, porch doors unlocked, tables & chairs not set up, floors a mess	
4/4/2022		Club	\$50.00	Entered prior to event date, left personal items overnight, tables & chairs not set up	She asked many times to enter early, was told no each time. Entered early anyway and was very rude.
4/18/2022		Club	\$100.00	did not clean, opened windows, left door unlocked -BMPD left note	
4/16/2022		Club	\$200.00	Entered 2 days prior to event date, tables & chairs not set up	Was asked to leave by MP, Dilan argued, so JH had to assist in his removal
4/26/2022		Club	\$50.00	Left trash & recycling in cans, tables & chairs not set up, door was left unlocked - BMPD left note	
4/30/2022		Club	\$50.00	Food on walls, door left unlocked - BMPD left note, tables & chairs not set up	
5/20/2022		Club	\$100.00	No tables or chairs set up, door left unlocked - BMPD left note	
5/22/2022		Club	\$100.00	Did not clean or set up tables & chairs	

6/25/2022	██████████		Club	\$100.00	Personal items left behind, tables & chairs not set up	
10/9/2022	██████████		Club	\$50.00	Items taken from LV closet and thrown in pool, no tables or chairs set up	Rec staff had to enter closed pool to retrieve items
10/11/2022	██████████		Club	\$100.00	Multiple Issues: food on floor & walls, tables & chairs not set up, frig shelf broken, windows opened, door left unlocked	LV cleaner could not close windows, took 2 LV staff to do so.
5/23/2023	██████████		LV Down	\$100.00	Removed and damaged ballard on walking path, food truck & DJ parked on walking path	Work order had to be placed to fix broken ballard
8/5/2023	██████████		Club	\$100.00	did not clean, left serving pans in dirty in sink, crushed candy on floors & pool fence. Beer cans left in front of pool and on sidewalk by LVC	Pool staff ended up helping LV cleaning crew pick up candy and beer garbage. LV staff had to clean and remove serving pans.

TOTAL RETAINED:	\$1,550.00
------------------------	-------------------



Date of Event: _____

Rental Hours: _____

FACILITIES CONTRACT

APPLICANT/USER: _____ Email Address: _____

TELEPHONE: Home _____ Cell _____ Work _____

ADDRESS: _____
Street City State Zip Code

(Mailing)
ADDRESS: _____
Street City State Zip Code

Lakeview Clubhouse ☐

Deposit \$ _____

Fee: \$ _____

Alcohol Fee: \$ _____

Not serving alcohol: ☐

Lakeview Center ☐

Deposit \$ _____

Fee: \$ _____

Alcohol Fee \$ _____

Lake Tomahawk Pavilion ☐

Deposit \$ _____

Half / Full Day Fee: \$ _____

Black Mountain Pool ☐

Fee for 40 ppl & under: \$ _____

of People Attending: _____

of Extra Lifeguards: _____

(\$30 per LG per 20 extra ppl)

Lake Tomahawk Gazebo ☐

Deposit \$ _____

Daily Fee \$ _____

Grey Eagle Arena ☐

Deposit \$ _____

hrs. _____ x \$ _____

Veterans Park Pavilion ☐

Deposit \$ _____

Half / Full Day Fee \$ _____

Veterans Park ☐

Deposit \$ _____ per field

Fee: # fields _____ \$ _____

Concession Stand \$ _____

Press Box: \$ _____

Lights: # of fields _____ x \$ _____ hr. = \$ _____ total

EQUIPMENT TO BE BROUGHT IN (i.e. decorations, sound system, grill, food, etc.): _____

Alternate Contacts (list two) _____

Name Address Telephone

Name Address Telephone

By signing below I agree to all the terms and conditions stated in the terms and conditions section of this contract:

SIGNATURE OF APPLICANT: (applicant has read and will abide by all statements included in the "Facilities Contract.")

DATE

Office Use Only:

SIGNATURE OF BMRP STAFF PERSON _____

DATE _____

Deposit: Cash ☐ Check ☐ # _____ Credit Card ☐

Rental Fee: Cash ☐ Check ☐ # _____ Credit Card ☐

Deposit Refunded: ☐ Date: _____

Key #: _____

Administrative office:
304 Black Mountain Ave,
Black Mountain, NC 28711
(828) 669-2052
recreation@tobm.org

Rental Contract Terms and Conditions

Please Read AND Initial After Each Item

Payment and Deposit:

Rental deposit and completed contract are required to schedule an event. No dates or facilities will be held, scheduled, or reserved without a completed contract and deposit. Payment in full is required within (10) business days of your event. If an event is scheduled fewer than (10) business days prior to the event date payment is due upon reservation. Rental deposits are refunded in full once the rental is complete and ALL terms of the rental contract have been upheld and keys have been returned.

Rental deposits may be held or partially refunded if any of the following occurs:

- Physical damage to the facility
- Entering or using a facility outside of the permitted rental times listed on the front of the rental contract
- Failure to complete, sign, and return pre and post rental checklists
- Tampering with facility infrastructure (adjusting HVAC levels, opening windows)
- Failure to remove trash and return furniture back to its original layout at end of contracted rental time
- Failure to return facility keys within **48 hours** after rental date
- Failure to uphold terms of the rental contract

The mailing address on this contract is correct. If it should change, I will contact BMRP with the new address.

If a refund check must be reissued, the stop payment fee of \$38.00 will be deducted from your refund.

Cancellation and Refund Policy:

Reservations are subject to cancellation at the will of the Director of the Recreation Department or the Town of Black Mountain without prior notice for unforeseen circumstances or conditions that cause the facility to be unsafe for use. In the event that a reservation is cancelled under these terms a full refund will be issued.

Refund of rental deposits will be made in full if the cancellation is requested prior to (10) business days before the scheduled date of the rental. Cancellations made between (10) business days and 48 hours before the rental will receive half of their rental deposit. Cancellations made less than 48 hours before the scheduled rental will receive no deposit refund. A reservation can be transferred to another date if the cancellation notice is received at least ten (10) business days prior to the reservation or in the event of inclement weather within five (5) business days after the event.

User Restrictions:

The applicant agrees to be on-site during the hours the facility is used. The applicant agrees to remove all trash, personal belongings, decorations, and food from the facility during the hours listed on the "Facility Contract." The applicant hereby agrees and undertakes to save and hold harmless the Town of Black Mountain, from any and all claims for damages to person or property that may arise out of the use of the facility and special equipment, without regard to whether the damage, personal or otherwise is brought about or caused by the negligence of the applicant, the Black Mountain Recreation and Parks Department, or any other person, organization, firm, or corporation. The applicant will be responsible for, and agree to pay for, damages done to the property and equipment of the Black Mountain Recreation and Parks Department exclusive of ordinary wear and tear. No nails, screws, staples, or penetrating items are to be used on walls or floors. Only low tack tape is allowed on walls and floors. Any damage above and beyond your deposit cost will be charged to applicant following the event. Windows in the upstairs Clubhouse may not be opened. We ask that only BMRP Staff rearrange or move any artwork, and bookshelves

Alcohol Policy

Alcohol is permitted **ONLY** in the Lakeview Clubhouse and Lakeview Center, to include only beer, wine and champagne. All consumption of alcoholic beverages must take place inside of the Lakeview Center. No alcoholic beverages are permitted outside of the building, including the deck area. To permit possession or consumption of alcohol, Applicant **must** complete the Town's "Application for Alcohol Permit" and remit a \$50 alcohol fee. Violation of the alcohol policy and/or the presence of alcohol on or in any Town facility or park (other than as stated above) may result in loss of deposit. The applicant assumes all responsibility for the presence, consumption and control of alcohol, as well as for any injuries related to alcohol use. **Violation of the alcohol policy may result in loss of deposit.**

Music/ DJs/Noise

In accordance with the Town of Black Mountains Code of Ordinances Sec 20-172 (item 4), Radios, record players, etc. The playing of any radio, television set, record player, musical instrument or sound producing or sound amplifying device in such manner or with such volume, particularly during the hours between 11:00 p.m. and 7:00 a.m. as to annoy or disturb the quiet, comfort or repose of any person in any dwelling, motel or other type of residence; provided, however, that such activities that would otherwise be allowed during a period of valid rental of the Lakeview Center may be continued from 11:00 p.m. until 1:00 a.m.

Title VI Nondiscrimination Policy Statement

It is the policy of the Town of Black Mountain to ensure that no person shall, on the grounds of race, color, national origin, limited English Proficiency, income-level, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any Town of Black Mountain program or activity, including, where applicable, religion, as provided by Title VI of the Civil Rights Act of 1964 and other pertinent nondiscrimination authorities.



INFORMATION FOR YOUR LAKEVIEW CENTER RENTAL

LAKEVIEW CENTER UPSTAIRS: 120 people

- 10 - round, 72" tables (7-8 people ea.)
- 4 - rectangle 8' tables
- 120 padded chairs
- Full kitchen
- 2 restrooms
- Wi-Fi
- Outside deck

LAKEVIEW CENTER DOWNSTAIRS: 60 people

- 6 - square 3x3' tables (4 people ea.)
- 2 - 4 - rectangle 8' tables
- 50 + padded chairs
- Full kitchen
- 2 restrooms
- Wi-Fi

BEFORE YOUR EVENT:

- An email will be sent to the email address listed on the contract with the code to the key lock box so that you can retrieve the key to the facility/facilities reserved. Please ensure we have the correct email address.
- The cleaning checklist will be emailed with the code email and needs to be signed and turned in with the key. If you do not have a way to print it, please pick one up at our offices.
- The contract holder must be present at the Lakeview Center during the reservation, or the rental contract is considered violated, and the deposit will be withheld.

USER RESTRICTIONS:

- Nails, screws, staples, or any penetrating items are prohibited. Low tack tape or 3M products only.
- Alcohol is only permitted with an Alcohol Permit.
- Alcohol is only permitted inside the building.
- Guest access is only for the facility/facilities listed on the rental contract.
- Tables and chairs are NOT to be moved from one floor to another.
- No vehicles are permitted on paths around the Lakeview Center.
- Wooden post near the pool parking area, blocking pathway, is to only be removed by emergency or town personnel.

BEFORE LEAVING:

- Follow the cleaning checklist.
- Remove all personal items.
- Secure and lock all doors.
- Return keys to Recreation and Parks offices after doors are locked, address below.

Rental deposits may be held or partially refunded if we find that the rental contract has been violated. If you have any questions, please contact us at recreation@tobm.org or 828-669-2052.

Thank you,
BMRP



Lakeview Center Clubhouse (upstairs)

AFTER Your Event - Cleaning Checklist

To be eligible for deposit refunds the following must be completed following your event.

It is your responsibility to make sure the rental facility is left clean, orderly, and locked.

DINING ROOM:

☐ **Make sure there are 6 tables set up with 8 chairs each** (wipe down all tables used)

☐ Put extra chairs in the right corner with other chair stacks. (no more than 6 high please)

☐ If extra tables were taken out of the closet, then they must be put away

☐ Sweep ALL floors

KITCHEN:

☐ Remove all food from the kitchen including from the refrigerator

☐ Ensure stove is turned off

☐ Wipe down all surfaces; countertop, microwave, oven and refrigerator if needed

BATHROOMS:

☐ Wipe down countertop surfaces

☐ Sweep Floors

☐ Remove trash bag and replace with clean bag

BEFORE LEAVING:

☐ Bag and remove all trash and place in dumpster by the pool. (Use *small key* on ring to open side door to dumpster)

☐ Remove all personal items, including all decorations (anything left behind will be disposed of)

☐ Turn off all lights

☐ Lock all doors

☐ Return key and this checklist to BMRP office at 304 Black Mtn Ave, Black Mtn, NC(drop box available in front of office if after hours)

If the above conditions are not met to the satisfaction of BMRP, an appropriate fee will be deducted from the deposit. If the cost of cleaning and/or repair of the facility exceed the amount of the deposit, the renter will be billed for those additional costs. Janitorial service will be billed at \$40/ hour and administrative fees billed for the full replacement cost incurred, including labor. For rentals that are issued keys, lost or damaged keys will result in a forfeiture of \$25 of the deposit for key replacement for each key. Deposits will be refunded within 30 days post event.

Renter's Signature: _____ Date: _____

BMRP Office: 304 Black Mountain Ave, Black Mountain, NC 828-669-2052



Lakeview Center (downstairs)

After Your Event Cleaning Checklist

To be eligible for deposit refunds the following must be completed following your event.

It is your responsibility to make sure the rental facility is left clean, orderly, and locked.

Kitchen:

- ☐ Remove all food from the kitchen including in the refrigerator
- ☐ Ensure stove and coffee pot are turned off
- ☐ Wipe down all surfaces; countertop, microwave, oven and refrigerator if needed

Dining Room:

- ☐ Put tables and chairs back in original location
- ☐ If any tables or chairs were taken out of the closet, then they must be put away
- ☐ Do not move stationary furniture (i.e. bookshelves, computer desk)
- ☐ Sweep up any debris left on floor

Bathroom:

- ☐ Check bathrooms to ensure they are clean and orderly
- ☐ Remove trash bag and replace with clean bag

Before Leaving:

- ☐ Bag and remove all trash and place in dumpster, upstairs behind the pool (use small key on ring to open side door to dumpster)
- ☐ Remove all personal items, including decorations (anything left behind will be disposed of)
- ☐ Turn off all lights
- ☐ Lock all doors
- ☐ Return key and this checklist to BMRP office (drop box available in front of office if after hours)

If the above conditions are not met to the satisfaction of BMRP, an appropriate fee will be deducted from the deposit. If the cost of cleaning and/or repair of the facility exceed the amount of the deposit, the renter will be billed for those additional costs. Janitorial service will be billed at \$40/ hour and administrative fees billed for the full replacement cost incurred, including labor. For rentals that are issued keys, lost or damaged keys will result in a forfeiture of \$25 of the deposit for key replacement for each key. Deposits will be refunded within 30 days post event.

Renter's Signature: _____ Date: _____

BMRP Office: 304 Black Mountain Ave, Black Mountain, NC 828-669-2052

Fw: Industrial sink in upstairs kitchen

Michele Raine <michele.raine@tobm.org>

Mon 10/2/2023 8:06 AM

To: Melinda Polites <melinda.polites@tobm.org>

Cc: Joshua Henderson <joshua.henderson@tobm.org>

This is how Sandra found the upstairs sink this morning. We'll need someone to go over and fix it this morning if possible.



Michele Raine

Administrative Assistant

Black Mountain Recreation & Parks

828-669-2052

From: Sandra Arrowood <sbarrowood@gmail.com>

Sent: Monday, October 2, 2023 7:45 AM

To: Michele Raine <michele.raine@tobm.org>

Subject: Industrial sink in upstairs kitchen

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.

This is the way I found the sink this morning! I realized it was draining on the floor when the water I was rinsing it with splattered on my feet!!! I opened the cabinet to find this!
Just letting you know!



Sandra

Renter: [REDACTED]

Date of Rental: Saturday, 3-26-22

Issues: Trash left in bathroom cans and on floor.

Both back doors were left unlocked.

Red stain on round table.

Tables and chairs not returned to how it is supposed to be per contract and cleaning checklist.





Applicant Name: [REDACTED]

Facility: Lakeview Clubhouse

Date of Rental: 8-5-23

Time of Rental: 10am – 1am

This letter is to inform you that we have found cause to withhold a part or **whole** of the rental deposit due to issues with the facility rented.

Reasons for Withholding Deposit:

☒ Failed to complete, sign, and return Facility Cleaning List. (with key packet)

☒ Facility guidelines for usage and/or cleanliness were not adhered to.

Candy and candy wrappers left on floors, inside and outside. Candy suckers stuck to pool fence, soda cans and multiple beer cans found on ground and in bushes, plastic cups under bushes. Floors inside building were very sticky and very dirty.

☐ Physical damages were done to facility.

☐ Windows were opened.

☐ Doors were left unlocked.

☐ Noise complaint was made.

☐ Alcohol was served without obtaining permit from BMRP.

☒ Alcohol was consumed outside of the building.

Beer cans found outside of building, on the ground and in bushes.

☐ Failed to remove trash and put into dumpster.

☒ Failed to return furniture back to its original layout.

The dining room was not set back up as the cleaning checklist indicates. The checklist was sent via email with lock box code instruction sheet. Renter confirmed email was received.

Rental deposits may be held if any part of your rental contract has been broken or if actions have violated the contract terms.

If you have any questions regarding this, you may call our offices at 828-669-2052.

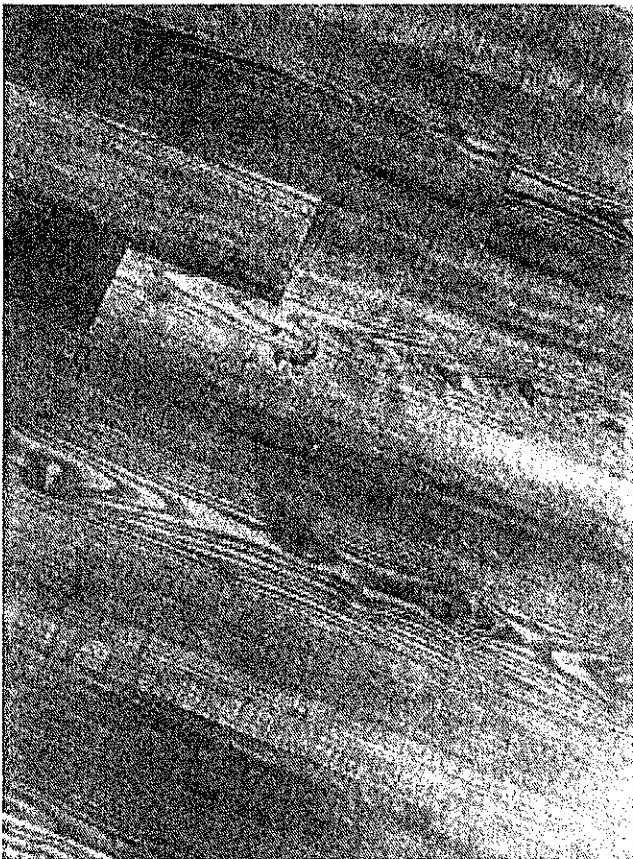
Sincerely,

Black Mountain Recreation and Parks

Pictures from cleaning crew and pool manager, after the rental for [REDACTED] who rented the Clubhouse on August 5, 2023.

Multiple issues with rental.

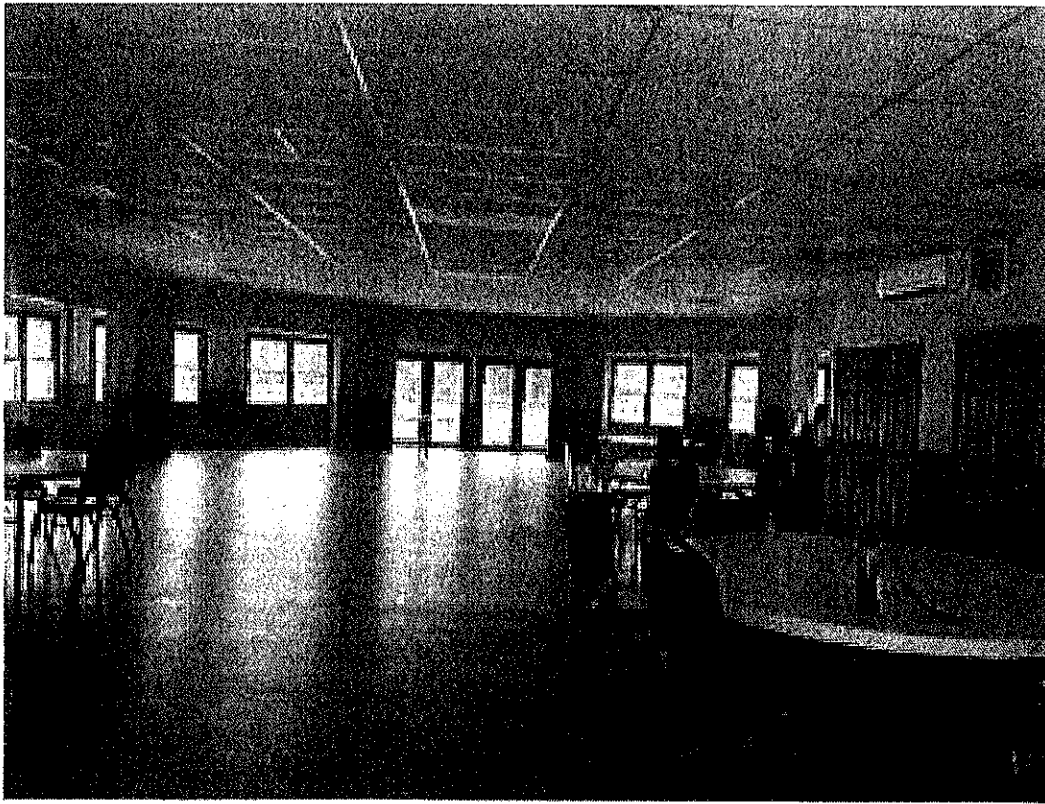
- Tables not returned to original position, per the cleaning checklist.
- Candy stuck on floor inside and outside Clubhouse, many spots, hard to remove.
- Candy trash stuck to pool fence, with soda cans.
- Multiple beer cans and red solo cups found on ground around Clubhouse door.



Multiple places where crushed candy
was ground into floors.



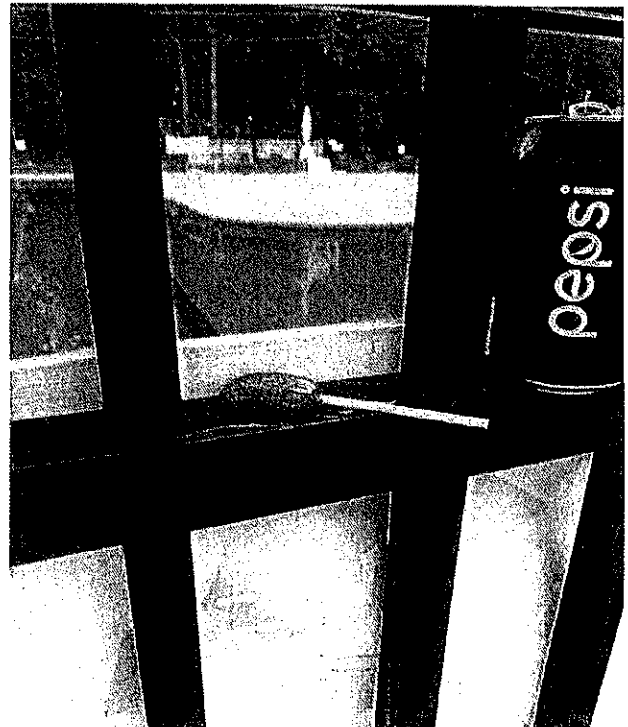
Beer cans in grass all around LV center



tables not
put back
correctly



Crushed candy



candy & cans stuck to
pool fence



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: John Coffey, fire Chief

MEETING DATE: November 9, 2023

AGENDA SECTION: NEW BUSINESS

DEPARTMENT: Fire

TITLE OF ITEM: Authorization to sell fire apparatus –

Chief John Coffey

SUGGESTED MOTION(S):

I move that the mayor and council authorize approval to sell the 1984 GMC Brigadier for \$50,000.

SUMMARY: This is part of the fleet replacement plan for aging fire apparatus. Sales of similar 1984 models have sold between \$10,000 and \$50,000. However, these sales have not been to other fire departments within the United States. Most US sales of like models have been to private citizens.

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:

Sale/Disposal of Town Property Authorization Form

TOWN OF BLACK MOUNTAIN
**SALE/DISPOSAL OF TOWN PROPERTY
 AUTHORIZATION**



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

Complete the table below prior to the disposal of property:

PROPERTY SOLD	Fire Attack Pumper	SALE PROCEEDS ESTIMATE	\$50,000
PROPERTY CONDITION	Good	DEPT/BUDGET WHICH MADE THE ORIGINAL PURCHASE	Fire Department FY 83/84
YEAR	1984	CITY I.D. #	0026
MILEAGE	28494.00	VIN / SERIAL #	1GDP9C1J3EV511382
MAKE	GMC	LISENCE PLATE#	
MODEL	Emergency One Inc. (Brigadier)		

Other description, notes:

Truck assesories included: hosebed cover, hose reel, and ground monitor.

Department Head Signature: _____

Date: 10 / 18 / 23

Finance Director Signature: _____

Date: 10 / 17 / 23

Complete the table below after the disposal of property:

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

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



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: John Coffey, Fire Chief **MEETING DATE:** November 13, 2023

AGENDA SECTION: NEW BUSINESS **DEPARTMENT:** Fire

TITLE OF ITEM: Results of ISO Inspection

Chief John Coffey / Deputy Chief James Bingham

SUGGESTED MOTION(S):

No motions (informative)

SUMMARY: An ISO fire rating, also referred to as a fire score or Public Protection Classification (PPC), is a score from 1 to 10 that indicates how well-protected your community is by the fire department. In the ISO rating scale, a lower number is better: one is the best possible rating, while a 10 means the fire department did not meet ISO's minimum requirements.

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:

Department of Insurance results of the ISO (Insurance Services Office) examination.



RATINGS AND INSPECTIONS

Tel 919.647.0000 Fax 919.715.0063

MIKE CAUSEY, INSURANCE COMMISSIONER & STATE FIRE MARSHAL
BRIAN TAYLOR, CHIEF STATE FIRE MARSHAL

October 26, 2023

Josh Harrold
Town Manager
160 Midland Ave.
Black Mountain, NC 28711

Re: Black Mountain Fire District

Dear Josh Harrold:

We wish to thank you, Chief Coffey, and others for the cooperation given to our representative during our recent survey. We have completed our evaluation of the fire insurance classification for Black Mountain Fire District, and confirm that Class 3 continues to apply.

The purpose of our visit was to gather information needed to determine a fire insurance classification that may be used in the calculation of property insurance premiums. This survey was not conducted for property loss prevention or life safety purposes and no life safety or property loss prevention recommendations will be made.

Class 3 applies to properties with a fire flow of 3500 gpm or less. The private and public protection at properties with larger needed fire flows are individually evaluated, and may vary from the 3 classification.

We are attaching a copy of the Grading Sheet and the results of the survey witnessed during our visit.

If you have any questions concerning our survey and grading, please let us know.

Sincerely,

Tony Bailey

Tony Bailey
Supervisor of Inspections

TB/hr

Enclosure

Cc: John Coffey, Fire Chief