



TOWN OF BLACK MOUNTAIN

TOWN COUNCIL

FEBRUARY 12, 2024

REGULAR SESSION AGENDA

Time: 6:00 p.m.

Town Hall Council Chambers | 160 Midland Avenue, Black Mountain, NC 28711

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AGENDA REVISED FEB. 8, 2024

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 Council Members have a duty and obligation to vote.*

2. PROCLAMATIONS, AWARDS, RECOGNITIONS

A. African American History Month Proclamation

3. CITIZEN COMMENTS

Individuals wishing to address the Council 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 Council. **Comments by any one speaker shall be limited to three (3) minutes.** If the topic you wish to discuss pertains to a **public hearing** scheduled for this meeting, please reserve your comment for the applicable public hearing.

4. COMMUNICATIONS FROM STAFF, COUNCILS, COMMISSIONS & AGENCIES

A. Presentation from R. Keith Miller, Buncombe County Property Assessor

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 Meeting Minutes – Wesley Barker, Town Clerk

- December 6, 2023 Special Called Meeting
- December 7, 2023 Agenda Workshop Meeting
- December 11, 2023 Regular Meeting
- December 14, 2023 Special Called Meeting
- January 4, 2024 Agenda Workshop Meeting
- January 8, 2024 Regular Meeting

Motion: To approve the meeting minutes as presented.

B. Monthly Property Tax Collector Report - Tammy Holland, Finance Director

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

C. Amendment to Contract for Audit Accounts – Tammy Holland, Finance Director

Motion: To approve the amendment to the contract to audit accounts as presented.

D. Consideration of Mountain Heritage Trout Waters MOU – Jessica Trotman, Planning Director

Motion: To approve the Mountain Heritage Trout Waters MOU as presented.

Consent Motion: To approve all consent agenda items as presented (or as amended).

6. PUBLIC HEARING - none

*The chair will recognize individuals requesting to address the Council regarding the specific topic of the public hearing. **Public hearing comments by any one 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.*

7. CITIZEN COMMENTS

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

8. UNFINISHED BUSINESS

A. Lake Tomahawk Playground Upgrades – Josh Henderson, Recreation & Parks Director

Motion: To approve the updated costs and project design as presented.

9. NEW BUSINESS

A. Consideration of Resolution to Apply for the Streamflow Rehabilitation Program (StRAP) Grant for Stream Debris Removal Along Flat Creek River –

Jessica Trotman, Planning Director

Motion: To approve the resolution to apply through the StRAP grant for streambank restoration along Flat Creek River.

B. Consideration of Dr. John Wilson Community Garden Strategic Plan – Josh

Henderson, Recreation & Parks Director

Motion: To approve the strategic plan for the Dr. John Wilson Community Garden.

C. Cragmont Park Renovations - Josh Henderson, Recreation & Parks Director

Motion: To provide direction for next steps in this project.

D. Town Newsletter Discussion

10. COMMUNICATION

- A. Town Attorney – Craig Justus
- B. Town Manager – Josh Harrold

11. COMMUNICATION FROM MAYOR AND TOWN COUNCIL

12. CLOSED SESSION

- A. § 143-318.11 (a)(5)-** To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease.

Motion: To enter into closed session as allowed under NC General Statute § 143-318.11(a)(5).

13. ADJOURNMENT

Proclamation

Recognizing African American History Month

WHEREAS, members of the Black Mountain Town Council take pride in recognizing February 2024 as Black History Month, celebrating the many notable contributions that people of African descent have made to our community, state, and country; and

WHEREAS, African Americans have played significant roles in the history of North Carolina's economic, cultural, spiritual, and political development while working tirelessly to maintain and promote their culture and history; and

WHEREAS, in 1976, President Gerald Ford made Black History Month a national observance; and

WHEREAS, we celebrate the many achievements and contributions made by African Americans like Roberta Flack, Nina Simone, E.W. Pearson, and Isaac Dickson to Buncombe County's economic, cultural, spiritual, and political development; and

WHEREAS, the Town of Black Mountain has had three African Americans to serve on the Board of Aldermen, now Town Council, which includes Alderman John B. Hamilton, first elected in 1991; Alderman Carlos L. Showers, first elected in 2009; and current Vice Mayor Archie Pertiller, Jr., first elected in 2020; and

WHEREAS, African American History Month presents a special opportunity to become more knowledgeable about African American heritage, and to honor the many African American leaders who have played a part in the progress right here in our community; and

NOW, THEREFORE, I, C. Michael Sobol, Mayor of the Town of Black Mountain do hereby proclaim the month of February 2024 as:

“AFRICAN AMERICAN HISTORY MONTH”

in the Town of Black Mountain. I encourage you to take this opportunity to seek out African American History Month events and celebrations and join together in making this period of rededication to the principles of justice and equality for all people.

PROCLAIMED this the 12th day of February 2024.



C. Michael Sobol, Mayor

Attest:

Wesley M. Barker, Town Clerk



TOWN OF BLACK MOUNTAIN

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

Date: **December 6, 2023** Time: **3:00 p.m.** **Special Called Meeting Minutes**

THE BLACK MOUNTAIN TOWN COUNCIL held a special called meeting on Wednesday, December 6, 2023, at 3:00 p.m. in the board room of Town Hall, 160 Midland Avenue, Black Mountain NC.

CALL TO ORDER

Mayor C. Michael Sobol called the meeting to order at 3:02 p.m. The following Council members were in attendance: Mayor C. Michael Sobol, Council Member Alice Berry, Council Member Doug Hay, Council Member Pam King and Council Member Ryan Stone. Vice Mayor Archie Pertiller was absent.

The following were also present: Josh Harrold, Town Manager; Wesley Barker, Town Clerk; and Susan Russo Klein, Attorney

Mayor Sobol stated the purpose of this special called meeting was for Town Council to meet in closed session for two different items which were as follows: 1) to consider the performance of an individual public officer as allowed by N.C. General Statute 143-318.11(a)(6), and 2) discussion of acquisition of real property as allowed by N.C. General Statute 143-318.11(a)(5)(i).

Council Member Pam King made a motion for the Council to enter into closed session as allowed by N.C. GS 143-318.11(a)(6). The motion was approved with a vote of 4-0 in favor. Vice Mayor Archie Pertiller absent.

The Council returned to open session at 4:13 p.m.

It was announced that the special meeting item concerning the performance of an individual public officer as allowed by N.C. General Statute 143-318.11(a)(6) would be recessed until Thursday, December 14th, 2023, at 8:30 a.m., which will be held at Town Hall, 160 Midland Ave., Black Mountain, NC.

Council Member Pam King made a motion for the Council to go back into closed session as allowed by N.C. General Statute 143-318.11(a)(5)(i) in reference to acquisition of real property. The motion was approved with a vote of 4-0 in favor. Vice Mayor Archie Pertiller absent.

The Council returned to open session at 4:26 p.m.

ADJOURNMENT

With no further discussion, Council Member Pam King made a motion to adjourn the meeting. The motion was approved with a vote of 4-0 in favor. Vice Mayor Archie Pertiller absent. The time was 4:26 p.m.

C. Michael Sobol, Mayor

ATTEST:

Wesley M. Barker, Town Clerk



TOWN OF BLACK MOUNTAIN

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

Date: December 7, 2023 Time: 5:00 p.m.

Agenda Meeting & Special Called Meeting Minutes (Capital Improvement Plan)

THE BLACK MOUNTAIN TOWN COUNCIL held the regular agenda workshop meeting and a special called meeting on Thursday, December 7, 2023, at 5:00 p.m. in the Council Chambers at Town Hall, 160 Midland Avenue, Black Mountain NC.

CALL TO ORDER

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

Mayor C. Michael Sobol, Vice Mayor Archie Pertiller, Council Member Alice Berry, Council Member Doug Hay, Council Member Pam King. Council Member Ryan Stone

The following staff members were present: Josh Harrold, Town Manager; Jessica Trotman, Assistant Town Manager/Planning Director; Wesley Barker, Town Clerk; John Coffey, Fire Chief; Chris Staton, Police Lieutenant; Joshua Henderson, Recreation & Parks Director.

Town Manager Josh Harrold presented the proposed agenda for the December 11, 2023 meeting to the Town Council.

Discussion ensued about the Lake Tomahawk playground upgrades and the stormwater credit program agenda items. There was a consensus among the Council to remove the stormwater credit program item and bring it back at a later date.

Council Member Alice Berry discussed the parking concerns on Broadway Ave. from the citizen comment received at the November 13, 2023 meeting. The Town Manager stated that Council can make parking changes to this street if they wish because it is a town owned street. Town staff will gather some more information.

With no further discussion, Council Member Doug Hay moved to approve the agenda as amended. The motion was approved by a vote of 5-0.

SPECIAL CALLED MEETING – Discussion of Capital Improvement Plan

The Council then moved into the special called meeting to discuss the Capital Improvement Plan (CIP). Assistant Town Manager/Planning Director Jessica Trotman gave a presentation on the CIP stating a CIP is a planning document for large ticket expenditures that is adopted by resolution and updated each year. This would be the Town's first CIP and would be on a seven-year outlook.

Advantages of having a CIP were discussed as well as risks of not having a CIP. CIP projects originate from community members, town council, town manager and department heads. Community member CIP requests are considered by the Town Council and moved forward by their direction, as needed. Scoring methods are used to determine feasibility and needs assessment. These scoring methods are examples accepted for use by the School of Government, and other communities.

Jessica Trotman stated a stormwater CIP is in process and will be a separate CIP from the Town's main CIP that is currently being planned.

The next steps in this CIP process are for the Town Council to complete a project sheet of considerations by January 4th, 2024, to review the requests from community members, and to review the CIP Fiscal Policy examples provided. The Council should share these comments to the Town Manager by December 20th, 2023.

There being no further business, Mayor C. Michael Sobol adjourned the meeting at 5:53 p.m.

C. Michael Sobol, Mayor

ATTEST:

Wesley M. Barker, Town Clerk



TOWN OF BLACK MOUNTAIN

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

Date: **December 11, 2023**

Time: **6:00 p.m.**

Regular Meeting Minutes

THE BLACK MOUNTAIN TOWN COUNCIL held their regular agenda workshop meeting on Monday, December 11, 2023, at 6:00 p.m. in the board room of Town Hall, 160 Midland Avenue, Black Mountain NC.

1. CALL TO ORDER

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

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

The following staff members were present:

Josh Harrold, Town Manager
Craig Justus, Town Attorney
Wesley Barker, Town Clerk
Jennifer Tipton, Senior Admin

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

2. PROCLAMATIONS, AWARDS, RECOGNITIONS

Mayor C. Michael Sobol read a Proclamation for Arbor Day.

3. CITIZEN COMMENTS

Debbie Norman, 230 North Fork Rd., spoke on parking at the Senior Center requesting 22 parking spaces be reserved from 9am-1pm Monday through Friday for senior center use.

Shawn Slome, 115 Third St., spoke about the 6.95-acre parcel of land located adjacent to Veterans Park at 500 Blue Ridge Road, encouraging the Town to purchase this property which coincides with a recommendation in the Town's adopted Parks and Recreation Plan, which would expand town parks and green space. Mr. Slome also suggested the Town look at financing options to acquire this land.

Jim Schneider, 210 Ninth St., spoke on the Senior Center request to designate parking spaces for use.

Peter Dawes, 49 Sunset Dr., addressed the Council about his water bill and a meter tampering charge. Mr. Dawes also spoke on restriping of town roads for public safety.

Julie White, from the Active Mobility Commission, thanked the Council for recent amendments to the

Active Mobility Commission and spoke on the upcoming feasibility study.

4) COMMUNICATIONS FROM STAFF, COUNCILS, COMMISSIONS & AGENCIES- none.

5) CONSENT AGENDA

- A. Adoption of Minutes** from October 5, 2023 Agenda Work Session, October 9, 2023 Regular Session, November 9, 2023 Agenda Work Session, and November 13, 2023 Regular Session Council meetings. *A motion was made by Vice Mayor Archie Pertiller to approve the minutes as presented. A vote of 5-0 in favor.*
- B. Adoption of the 2024 Town Council Meeting Schedule.** *A motion was made by Vice Mayor Archie Pertiller to approve the meeting schedule as presented. A vote of 5-0 in favor.*
- C. Adoption of the 2024 Town Holiday Schedule.** *A motion was made by Vice Mayor Archie Pertiller to approve the holiday schedule as presented. A vote of 5-0 in favor.*
- D. Approval of Budget Amendments** to transfer funds from unassigned fund balance for the following: Bike Boulevard, remaining \$20,000 to complete; State Forfeiture Funds- Glock Handgun, \$18,350; and Dugout approved repairs and updates, \$72,000. *A motion was made by Vice Mayor Archie Pertiller to approve the budget amendments as presented. A vote of 5-0 in favor.*
- E. Monthly Property Tax Collector Report.** *A motion was made by Vice Mayor Archie Pertiller to approve the report. A vote of 5-0 in favor.* Mayor Sobol requested a comparison of the tax collector report from last year.
- F. Award of Contract to Selected Firm for Feasibility and Master Planning of Donated Properties.** This item is to award the contract to Equinox for feasibility and master planning services for the donated properties to the town referred to as the Hemphill property and Black Mountain Venture properties. *A motion was made by Vice Mayor Archie Pertiller to approve the contract award to Equinox as presented. A vote of 5-0 in favor.*

6) PUBLIC HEARING- none.

7) CITIZEN COMMENTS- none.

8) UNFINISHED BUSINESS

- A) 2023 Comprehensive Recreation Master Plan Acceptance.** Jim Ford, with McGill Associates, gave a presentation to the Town Council with an overview of the Recreation Master Plan (2023-2033) projects and estimated costs of each. The elements of the plan were presented to the Council at a special-called meeting on March 1, 2023, however, at the time the plan was not yet complete and had not been accepted by the Council. Council Member Pam King commented on managing expectations due to costs, stating it will take time for projects to be completed. *Vice Mayor Archie Pertiller then made a motion to adopt the Comprehensive Recreation Master Plan and to use the term “adopt”, in lieu of the term “accept.” A vote of 5-0 in favor.*

9) NEW BUSINESS

- A) Appointment of Alternate Representative for the Black Mountain Center for the Arts.** This

appointment is to fill a vacancy resulting from Bill Christy's recent resignation from the Town Council, who was serving as the appointed alternate representative. ***Council Member Doug Hay made a motion to appoint Council Member Ryan Stone as the alternate representative to the Black Mountain Center for the Arts. A vote of 5-0 in favor.***

- B) Appointment to Asheville-Buncombe Riverfront Commission.** This appointment is a result of a recent revision of the Asheville Area Riverfront Redevelopment Commission's ordinance by the Asheville City Council to have more emphasis on sustainability of the riverfront area, including a regional look at improving water quality, and less focus on redevelopment and revitalization policies. As part of this revision, new membership includes one seat be appointed by the Black Mountain Town Council. The appointee must be an elected official or staff, or a resident, business owner/manager or property owner/manager in the Regional Riverfront. Terms on the commission are for three (3) years, expiring on December 31 of the appropriate year. Members may serve up to two (2) years full consecutive terms. ***Vice Mayor Archie Pertiller made a motion to appoint staff member Anne Phillip, Stormwater Technician, to this commission. A vote of 5-0 in favor.***

C) Board Appointments

- 1) **Appointment of Representative to the Metropolitan Sewerage District (MSD) Board.** Robert Watts currently serves as the Town's appointee to this board. His term will expire on January 1, 2024, and he is eligible for and interested in another three-year re-appointment. ***Council Member Ryan Stone made a motion to appoint Robert Watts for another three (3)-year term to the MSD Board. A vote of 5-0 in favor.***
 - 2) **Appointment to Zoning Board of Adjustment (ZBA).** There is currently a vacancy for one of the three alternate seats on the ZBA. An application was received from Linda Brinson for this board. It was noted that those serving in alternate seats on ZBA do not have term expirations. ***Council Member Pam King made a motion to appoint Linda Brinson to serve on the ZBA as an alternate. A vote of 5-0 in favor.***
- D) Audited Financial Report for FY 23.** Travis Kever, with Gould Killian CPA Group, presented the audited financial report summary for FY 23 to the Council. Items discussed during this report include financial performance indicators of concern, general fund summary of revenue, expenditures and fund balance, and ARPA funds. Discussion ensued between the Council members and Travis Kever. ***Council Member Doug Hay then made a motion to accept the financial report as presented. A vote of 5-0 in favor.***
- E) Lake Tomahawk Playground Upgrades.** Jessica Trotman, Planning Director, gave a short presentation on this item, stating \$100,000 was budgeted in FY 23-24 to fund upgrades to the current playground at Lake Tomahawk. The Council was presented with four (4) quotes for two (2) different designs which were drafted from feedback from staff and stakeholders and would not alter the current playground footprint or surfacing. The first design includes varying new play elements to be placed in the vacant area between the existing playground and area of the swings. The second design includes upgrades of the current play structure, keeping the footprint the same, and additional play elements. Jessica Trotman stated the difference between each would be pricing and surfacing type, with the option for poured-in-place (PIP) surfacing or traditional mulch surfacing. Discussion ensued among Council Members. Council Member Doug Hay asked about simple fencing between the playground and parking lot to keep children safe and the possibility of incorporating natural features into the playground which would save costs. There was a consensus from the Council for staff to obtain more information on the suggestions

made by Council Member Doug Hay, and to receive cost estimates on fencing and natural features and bring this item back to Council for final approval.

- F) Traffic Calming Policy.** Jessica Trotman, Planning Director, explained to the Council that this type of policy has several components to it which include discussion on public safety concerns with police and fire as it relates to placement of speed tables/humps and response time concerns. The Town would be looking at other communities and their traffic calming examples, which would be fine tuned for what would work for Black Mountain. The policy would be a scoring rubric, and a traffic study would be conducted once issues present themselves. Jessica Trotman stated this could be made part of the Capital Improvement Plan (CIP), based on the infrastructure chosen by the Council and the costs. The Town Attorney suggested naming this a “transportation plan” instead of using the term “policy.” Also, this would be data driven, not perception driven. Examples will be compiled by staff and brought back to the Council for consideration.

10) COMMUNICATION

- A)** Town Attorney Craig Justus stated he would be meeting with several department heads regarding code enforcement, and about the code of ordinances later this month.
- B)** Town Manager Josh Harrold addressed trash pickup during the holidays, stating overflow dumpsters would once again be available at Public Works, 304 Black Mountain Ave., for residents to drop off extra trash and recycling during business hours.

11) COMMUNICATION FROM MAYOR AND TOWN COUNCIL. Council Member Alice Berry suggested posting the holiday sanitation schedules on the Town website and social media. Council Member Pam King spoke on the new website design. Council Member Ryan Stone expressed his gratitude for his recent appointment to the Council. Council Member Doug Hay and Vice Mayor Archie Pertiller both wished everyone a happy holiday season.

12) ADJOURNMENT. *With no further business, Mayor C. Michael Sobol adjourned the meeting at 7:30 p.m.*

C. Michael Sobol, Mayor

ATTEST:

Wesley M. Barker, Town Clerk



TOWN OF BLACK MOUNTAIN

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

Date: **December 14, 2023** Time: **8:30 a.m.** **Special Called Meeting Minutes**

THE BLACK MOUNTAIN TOWN COUNCIL held a special called meeting on Thursday, December 14, 2023, at 8:30 a.m. in the board room of Town Hall, 160 Midland Avenue, Black Mountain, NC. *(The original meeting was held on Wednesday, December 6th, 2023 at 3:00 p.m. and was recessed until this date, time and location.)*

CALL TO ORDER

Mayor C. Michael Sobol called the previously recessed special meeting to order at 8:31 a.m. The following Council members were in attendance: Mayor C. Michael Sobol, Vice Mayor Archie Pertiller, Council Member Alice Berry, Council Member Doug Hay and Council Member Pam King. Council Member Ryan Stone was absent.

The following were also present: Josh Harrold, Town Manager; Wesley Barker, Town Clerk; and Susan Russo Klein, Attorney

Mayor Sobol stated the purpose of this meeting was for Town Council to meet in closed session and continue discussion of the following: to consider the performance of an individual public officer as allowed by N.C. General Statute 143-318.11(a)(6).

Council Member Alice Berry made a motion for the Council to enter into closed session as allowed by N.C. GS 143-318.11(a)(6). The motion was approved with a vote of 4-0 in favor. Council Member Ryan Stone absent. The time was 8:32 a.m.

The Council returned to open session at 10:04 a.m.

Attorney Susan Russo Klein stated the Town Council met to discuss the annual performance evaluation of the Town Manager which included a 4% annual compensation increase and a 2% one-time performance bonus.

Council Member Pam King then made a motion to increase Town Manager Josh Harrold's annual salary by four (4) percent, to \$155,116.52, an increase to \$5,966.02 biweekly, and to also provide a one-time 2% performance bonus in the amount of \$3,102.33. The motion was approved with a vote of 4-0 in favor. Council Member Ryan Stone absent.

ADJOURNMENT

With no further discussion, Council Member Pam King made a motion to adjourn the meeting. The motion was approved with a vote of 4-0 in favor. Council Member Ryan Stone absent. The time was 10:05 a.m.

C. Michael Sobol, Mayor

ATTEST:

Wesley M. Barker, Town Clerk



BLACK MOUNTAIN TOWN COUNCIL MINUTES

January 4, 2024 | Agenda Workshop Meeting | Time: 5:00 P.M.

Town Hall Council Chambers | 160 Midland Avenue, Black Mountain, NC 28711

The Black Mountain Town Council held their agenda workshop meeting on Thursday, January 4, 2024, at 5:00 p.m. in the Council Chambers of Town Hall, 160 Midland Avenue, Black Mountain, NC 28711.

Mayor C. Michael Sobol called the meeting to order at 5:03 p.m. with the following members in attendance: Mayor C. Michael Sobol, Vice Mayor Archie Pertiller, Council Member Alice Berry, Council Member Doug Hay and Council Member Ryan Stone. Absent: Council Member Pam King.

The following staff members were present: Josh Harrold, Town Manager; Wesley Barker, Town Clerk; Angela Reece, Project & Facilities Manager; Josh Henderson, Recreation & Parks Director; John Coffey, Fire Chief; Jamey Matthews, Public Works Director.

Town Manager Josh Harrold presented the proposed agenda for the January 8, 2024 Council meeting.

A brief discussion ensued regarding the proposed public hearing considering a resolution establishing a verifiable percentage goal for participation by minority businesses. Also, some discussion ensued around the agenda item of consideration of adoption of resolution to establish criteria for design-build delivery method for construction contracts. Project & Facilities Manager, Angela Reece, explained these resolutions were regulated by General Statute 143-128 for public contracts.

Further, a brief discussion proceeded about the Public Safety Interoperability Program (PSIP) Agreement agenda item. This PSIP agreement is with Buncombe County which is being updated to reflect new public safety communication software required as the current software is at its end of life.

Council Member Doug Hay asked for an addition to the agenda under "Communication from Staff, Councils, Commissions & Agencies," to add an introduction to the new Chamber of Commerce Director.

With no further discussion, Council Member Ryan Stone made a motion to adopt the agenda as presented with the requested addition by Council Member Doug Hay. The motion was approved by a vote of 4-0. Council Member Pam King was absent.

There being no further business, Mayor C. Michael Sobol adjourned the meeting at 5:15 p.m.

C. Michael Sobol, Mayor

ATTEST:

Wesley M. Barker, Town Clerk



BLACK MOUNTAIN TOWN COUNCIL MINUTES

January 8, 2024 | Regular Meeting | Time: 6:00 P.M.

Town Hall Council Chambers | 160 Midland Avenue, Black Mountain, NC 28711

The Black Mountain Town Council held their regular meeting on Monday, January 8, 2024, at 6:00 p.m. in the Council Chambers of Town Hall, 160 Midland Avenue, Black Mountain, NC 28711.

1. CALL TO ORDER

Mayor C. Michael Sobol called the meeting to order at 6:00 p.m. with the following members in attendance: Mayor C. Michael Sobol, Vice Mayor Archie Pertiller, Council Member Alice Berry, Council Member Doug Hay, Council Member Pam King, and Council Member Ryan Stone.

The following staff members were present: Josh Harrold, Town Manager; Wesley Barker, Town Clerk; Angela Reece, Project & Facilities Manager; Josh Henderson, Recreation & Parks Director; John Coffey, Fire Chief; Steve Parker, Police Chief; Jamey Matthews, Public Works Director.

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

2. PROCLAMATIONS, AWARDS, RECOGNITIONS

Mayor C. Michael Sobol read a proclamation recognizing Dr. Martin Luther King, Jr. Day.

3. CITIZEN COMMENTS

Libba Fairleigh presented the annual Black Mountain pickleball report for 2023. In 2023, she stated there were 6,244 players, a 1,200 increase from 2022. Due to the increase in players and recreation need, she requests the Town Council consider installing six (6) pickleball courts, above the four (4) courts proposed.

Phil Bisesi, 15 Hi View Dr., spoke on town recycling, stating he felt it should be a weekly event. He also spoke on Broadway St. parking, and proposes a crosswalk mid-block on Broadway, which would prevent pedestrians from walking out to cross the street, which creates a hazard.

Peter Dawes, spoke on public records and referenced a court case entitled Greene v. Buncombe County. Mr. Dawes also spoke on the recent Town holiday closures, trash pickup and leaf pickup delays.

Marilyn Sobanski spoke on playground equipment, suggesting the addition of a sandbox and the encouragement of STEM engagement.

4. COMMUNICATIONS FROM STAFF, COUNCILS, COMMISSIONS & AGENCIES

A. Active Mobility Commission Report. Julie White from the Active Mobility Commission presented the 2023 report and project status updates to the Council. Topics in the report included Ventures property greenway plan, sidewalk needs, debris in tunnels under I-40, visibility in barrel under I-40 used as greenway, maintenance issues, and plans for the coming year. Budget requests for 2024 include \$8,000 for greenway maintenance. The Council thanked Ms. White for her report.

B. Introduction of new Chamber of Commerce Director Melinda Hester. Ms. Hester introduced herself and provided some remarks to the Town Council including her vision as new director.

5. CONSENT AGENDA

A. Approval of Budget Amendments. These budget amendments are for the purpose of appropriating additional funding, \$35,787.98, required for expenditures of police vehicles, due to price increase.

Council Member Pam King made a motion to approve the budget amendments as presented. A vote of 5-0 in favor.

Adjustment Number	Description	Summary	Account Number	Account Name	Total Amount
BA0000103	BAMEND - ADJUSTMENT OF LOAN PROCEEDS PD VEHICLES	Adjustment of loan proceed for police vehicles due to price increase.	100-4510-48025 100-4510-57410	Debt Proceeds Capital Outlay-Vehicles	\$35,787.98 \$35,787.98

B. Monthly Property Tax Collector Report.

Council Member Pam King made a motion to approve the tax collector report as presented. A vote of 5-0 in favor.

C. Resolution to Accept Veterans Park Playground Shade Structure.

With no discussion, Council Member Pam King made a motion to adopt the following resolution as presented. A vote of 5-0 in favor.

**RESOLUTION TO ACCEPT VETERANS PARK PLAYGROUND SHADE
STRUCTURE**

Resolution #R-24-01

WHEREAS, two grants were applied for and awarded through the Black Mountain Parks and Greenways Foundation to purchase and install a small shade structure for the playground at Veterans Park; and

WHEREAS, the playground sits in an area of Veterans Park that has no natural shade cover; and

WHEREAS, the first grant was awarded on April 11, 2023, for \$5,172.00 from the Community Foundation of WNC; and

WHEREAS, the second grant was awarded on July 3, 2023, for \$6,000.00 from the Buncombe County Recreation Grant Foundation; and

WHEREAS, the installation of the shade structure began on November 30, 2023 and was completed on December 6, 2023.

NOW, THEREFORE, BE IT RESOLVED, that the Town of Black Mountain Town Council accept the Veterans Park playground shade structure.

READ, APPROVED AND ADOPTED, by a vote of __5__ to __0__ on this 8th day of January 2024.

6. PUBLIC HEARING

- A. Consideration of a Resolution Establishing a Verifiable Percentage Goal for Participation by Minority Businesses.** Angela Reece, Project and Facilities Manager, first gave a brief overview of this item to the Council, stating this was established by the General Assembly to better recruit and select minority businesses in public building construction or repair contracts. Further, Angela stated the statute requires a minority business participation outreach plan be developed and implemented before awarding a contract that exceeds \$300,000 for a building construction or repair project.

Council Member Alice Berry made a motion to open the public hearing at 6:36 p.m. A vote of 5-0 in favor. With no public comment, Vice Mayor Archie Pertiller made a motion to close the public hearing at 6:37 p.m. A vote of 5-0 in favor.

With no discussion, Council Member Pam King made a motion to adopt the following resolution as presented. A vote of 5-0 in favor.

**RESOLUTION BY THE TOWN OF BLACK MOUNTAIN TOWN COUNCIL
ESTABLISHING VERIFIABLE PERCENTAGE GOAL FOR PARTICIPATION BY
MINORITY BUSINESS IN THE AWARDING OF BUILDING CONSTRUCTION
CONTRACTS PURSUANT TO N.C.G.S. 143-128.2**

Resolution #R-24-02

WHEREAS, the North Carolina General Assembly enacted Session Law 2001– 496, Senate Bill 914 to enhance and improve the good faith efforts to recruit and select minority businesses for participation in public building construction or repair contracts by adding N.C.G.S. 143-128.2, except as provided in NCGS 143-128.2(a) for State related projects; and

WHEREAS, N.C.G.S. 143-128.2 requires each city, county, or other local public entity to adopt, after notice and a public hearing, an appropriate verifiable percentage goal for participation by minority businesses in the total value of work for building projects costing \$300,000 or more; and

WHEREAS, N.C.G.S. 143-128.2(b) requires a public entity awarding a building contract where the total cost equals or exceeds \$300,000 to establish, prior to solicitation of bids, good faith efforts that it will take to make it feasible for minority businesses to submit successful bids or proposals for the contracts for building projects; and

WHEREAS, N.C.G.S. 143-128.2(e)(1) requires a public entity awarding a building construction or repair contract where the total cost exceeds \$300,000, prior to awarding a contract, to develop and implement a minority business participation outreach plan; and

WHEREAS, notice of the public hearing was duly published in The Asheville Citizen Times on December 24, 2023 and December 31, 2023 the required public hearing was held on January 8, 2024; and

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

1. That the Town of Black Mountain shall have a 10% verifiable percentage goal for participation by minority businesses in the total value of work for building projects awarded by the Town of Black Mountain and costing \$300,000 or more.
2. That the Town of Black Mountain shall follow the guidelines of the Minority Business Participation Outreach Plan and Guidelines for Recruitment and Selection of Minority Businesses for Participation in the Town of Black Mountain Building Construction or Repair Contracts for minority business participation in building construction or repair contracts.
3. This resolution shall become effective upon its adoption.
4. The Outreach Plan & Guidelines is made part of and attached to this resolution.

Adopted by the Town Council of the Town of Black Mountain on this 8th day of January 2024.

*****Note: Pages 5-21 of these minutes is the Outreach Plan & Guidelines as stated above.***

TOWN OF BLACK MOUNTAIN
MINORITY BUSINESSES PARTICIPATION AND OUTREACH PLAN
FOR BUILDING CONSTRUCTION OR REPAIR CONTRACTS

Except as provided in NCGS 143-128.2(a) for State related projects, in accordance with G.S. 143-128.2, these guidelines establish goals for minority participation in single- prime bidding, separate-prime bidding, construction manager at risk, and alternative contracting methods, on the Town of Black Mountain building construction or repair projects in the amount of \$300,000 or more. The outreach plan shall also be applicable to the selection process of architectural, engineering, and Construction Manager-at-Risk services.

The Town of Black Mountain has a current verifiable goal of ten (10) percent for minority participation for building construction or repair projects.

I. INTENT

It is the intent of these guidelines that the Town of Black Mountain as awarding authority for building construction or repair projects, and the contractors and subcontractors performing the construction contracts awarded shall cooperate and in good faith do all things legal, proper, and reasonable to achieve the goal of 10% percent for participation by minority businesses in each building construction or repair project as required by GS 143-128.2. Nothing in these guidelines shall be construed to require contractors or awarding authorities to award contracts or subcontracts to or to make purchases of materials or equipment from minority-business contractors or minority-business subcontractors who do not submit the lowest responsible, responsive bid or bids.

A copy of these Guidelines will be issued with each bid package for applicable Town of Black Mountain building projects. These Guidelines shall apply to all contractors on such projects, regardless of ownership.

II. DEFINITIONS

1. **Minority** – as defined in § 143-128(g)(2) a person who is a citizen or lawful permanent resident of the United States and who is:
 - a. Black, that is, a person having origins in any of the black racial groups in Africa.
 - b. Hispanic, that is, a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race;

- c. Asian American, that is, a person having origins in any of the original peoples of the Far East, Southeast Asia and Asia, the Indian subcontinent, the Pacific Islands;
- d. American Indian, that is, a person having origins in any of the original peoples of North America; or
- e. Female

2. **Minority Business** (MBE) – as defined in § 143-128(g)(1) a business:

- a. In which at least fifty-one percent (51%) is owned by one or more minority persons, or in the case of a corporation, in which at least fifty-one percent (51%) of the stock is owned by one or more minority persons or socially and economically disadvantaged individuals; and
- b. Of which the management and daily business operations are controlled by one or more of the minority persons or socially and economically disadvantaged individuals who own it.
- c. The business is certified as a Historically Underutilized Business by the North Carolina Department of Administration Office for Historically Underutilized Business.

3. **Socially and Economically Disadvantaged Individual** – as defined in 15 U.S.C. 637:

- a. Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities.
- b. Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged.

4. **Public Entity** - The State and all public subdivisions and local governmental units.

5. **Owner** – The Town of Black Mountain.

6. **Designer** – Any person, firm, partnership, or corporation which has contracted with the Town of Black Mountain to perform architectural or engineering work.

7. **Bidder** - Any person, firm, partnership, corporation, association, or joint venture seeking to be awarded a public contract or subcontract.

8. **Contract** - A mutually binding legal relationship or any modification thereof obligating the seller to furnish equipment, materials, or services,

including construction, and obligating the buyer to pay for them.

9. Contractor - Any person, firm, partnership, corporation, association, or joint venture which has contracted with the Town of Black Mountain to perform building construction or repair work.

10. Subcontractor - A firm under contract with the prime contractor or construction manager at risk for supplying materials or labor and materials and/or installation. The subcontractor may or may not provide materials in his subcontract.

11. HUB Office- N.C. Department of Administration's Office for Historically Underutilized Businesses.

III. MINORITY OUTREACH PLAN AND GUIDELINES

A. OWNER

The Town of Black Mountain shall do the following to encourage participation from MBEs:

1. Implement the "Town of Black Mountain's Minority Business Participation Outreach Plan" to identify minority business that can perform public building projects and to implement outreach efforts to encourage minority business participation in these projects to include education, recruitment, and interaction with minority businesses and nonminority businesses.
2. Attend the scheduled pre-bid conference and explain the minority goals and objectives.
3. At least 10 days prior to the scheduled day of bid opening, notify minority businesses that have requested notices from the Owner for public construction or repair work and minority businesses that otherwise indicated to the Office of Historically Underutilized Businesses (HUB) an interest in the type of work being bid or the potential contracting opportunities listed in the proposal.

The notification shall be submitted through the North Carolina Department of Administration website <https://www.doa.nc.gov/divisions/historically-underutilized-businesses-hub/solicitation-opportunities> and shall include the following:

- a. A description of the work for which the bid is being solicited.
- b. The date, time, and location where the bids are to be submitted.
- c. The name of the individual within the public entity who will be available to answer questions about the project.
- d. Where bid documents may be received.
- e. Any special requirements that may exist.

The Owner shall document the notification submissions to the portal to include the solicitation posting confirmation and actual posting. The documentation shall be kept

in the project file.

4. Utilize other media, as appropriate, likely to inform potential minority businesses of the bid being sought.
5. Maintain documentation of any contacts, correspondence, or conversation with minority business firms made in an attempt to meet the goals.
6. Review, jointly with the designer, all requirements of G.S. 143-128.2(c) and G.S. 143- 128.2(f) prior to recommendation of award.
7. Evaluate documentation to determine that a good faith effort has been achieved for minority business utilization prior to recommendation of award.
8. Forward documentation showing evidence of implementation of Owner's requirements to the State Construction Office and the HUB Office upon request.
9. Enhance the Town of Black Mountain web page by including the outreach plan and guidelines, listing good faith efforts, creating links to MBE resources, and creating awareness of specific subcontracting opportunities.

In addition, after a contract has been awarded the Owner shall:

- a. Review prime contractors' pay applications for compliance with minority business utilization commitments prior to payment.
- b. Submit the report to the HUB Office as required by G.S. 143-128.3(a)

B. DESIGNER

Under the single-prime bidding, separate prime bidding, construction manager at risk, or alternative contracting method, the designer will:

1. Attend the scheduled pre-bid conference to explain minority business requirements to the prospective bidders.
2. Maintain documentation of any contacts, correspondence, or conversation with minority business firms made in an attempt to meet the goals.
3. Review jointly with the owner, all requirements of G.S. 143-128.2(c) and G.S.143- 128.2(f) – (i.e. bidders' proposals for identification of the minority businesses that will be utilized with corresponding total dollar value of the bid and affidavit listing good faith efforts, or affidavit of self-performance of work, if the contractor will perform work under contract by its own workforce)

- prior to recommendation of award.

4. During construction phase of the project, review documentation for contract payment to MBEs (e.g. state form "Appendix E: MBE

Documentation for Contract Payment”

<https://www.doa.nc.gov/document/appendix-e-mbe-documentation-contract-payments> for compliance with minority business utilization commitments. Submit this form with monthly pay applications to the Owner.

5. Make documentation showing evidence of implementation of Designer’s responsibilities available for review by the Owner and State officials upon request.

C. PRIME CONTRACTOR(S), CM AT RISK, & FIRST-TIER SUBCONTRACTORS

The following requirements apply to all contractors utilizing single-prime bidding, separate- prime bidding, construction manager at risk and alternative contracting methods, as well as to all contractors performing as contractors and first-tier subcontractors under construction manager at risk. For purposes of this subsection, the term “contractor(s)” shall also include first-tier subcontractors under a construction manager at risk. The contractors shall:

1. Attend the scheduled pre-bid conference and any pre-bid meetings scheduled by the Owner.
2. Identify or determine those work areas of a subcontract where minority businesses may have an interest in performing subcontract work.
3. At least ten (10) days prior to the scheduled day of bid opening or due date for proposals, notify minority businesses of potential subcontracting opportunities listed in the proposal. The notification must include all of the following:
 - (a) A description of the work for which the sub-bid is being solicited.
 - (b) The date, time and location where sub-bids are to be submitted.
 - (c) The name of the individual within the company who will be available to answer questions about the project.
 - (d) Where bid documents may be reviewed.
 - (e) Any special requirements that may exist, such as insurance, licenses, bonds and financial arrangements. Identify on the bid the minority businesses that will be utilized on the project with corresponding total dollar value of the bid and affidavit listing good faith efforts as required by G.S. 143-128.2(c) and G.S. 143-128.2(f).

If there are more than three (3) minority businesses within a 75-mile radius of the project who offer similar contracting or subcontracting services in the specific trade, the contractor(s) shall notify three (3), but may contact more, if the contractor(s) so desires.

4. During the bidding process, comply with the contractor(s) requirements listed in these Guidelines and any contractor

requirements listed in the Town of Black Mountain's Minority Business Participation Outreach Plan.

5. Identify on the bid the minority businesses that will be utilized on the project with corresponding total dollar value of the bid and submit affidavit listing Good Faith Efforts (Affidavit A) as required by G.S. §143-128.2(c) and G.S. §143-128.2(f). If the contractor will be performing all of the work with its own workforce, the contractor may submit Affidavit B, Intent to Perform Contract with Own Workforce," in lieu of Affidavit A. Failure to comply with these requirements is grounds for rejection of the bid and award to the next lowest responsible and responsive bidder.
6. Make documentation showing evidence of implementation of Prime Contractor, Construction Manager-at-Risk and First-Tier Subcontractor responsibilities available for review by the Owner and State officials upon request.
7. Provide one of the following to Owner upon being named the apparent low bidder:
 - a. an affidavit (Affidavit C) that includes a description of the portion of work to be executed by minority businesses, expressed as a percentage of the total contract price, which is equal to or more than the applicable goal; or.
 - b. if the percentage is not equal to the applicable goal, then an affidavit (Affidavit D) and documentation of all Good Faith Efforts taken to meet the goal. The documentation must include evidence of all good faith efforts that were implemented, including any advertisements, solicitation, and evidence of other specific actions demonstrating recruitment and selection of minority businesses for participation in the contract. Failure to comply with these requirements is grounds for rejection of the bid and award to the next lowest responsible and responsive bidder.
8. Within thirty (30) days after award of the contract, the apparent lowest responsible, responsive bidder shall file with Owner a list of all identified subcontractors that the contractor will use on the project.
9. Identify the name(s) of minority business subcontractor(s) and corresponding dollar amount of work on the schedule of values. The schedule of values shall be provided as required in the General Conditions of the Contract to facilitate payments to the subcontractors. All vendors doing business with the Town are required to fill out a vendor packet and submit to accounts payable.
10. Submit documentation for contract payment with each monthly pay request and final payment request the "MDE Documentation for Contract Payment" – Appendix E), for Designer's review.

11. If at any time during the construction of a project, it becomes necessary to replace a minority business subcontractor, immediately advise the Owner in writing of the circumstances involved. The prime contractor shall make a good faith effort to replace a minority business subcontractor with another minority business subcontractor.
12. Make a good faith effort to solicit sub-bids from minority businesses during the construction of a project if additional subcontracting opportunities become available.
13. If applicable, a construction manager at risk shall submit its plan for compliance with N.C. Gen. Stat. § 143-128.2 for approval by the Town prior to soliciting bids for the project's first-tier subcontractors.

D. MINORITY BUSINESS RESPONSIBILITIES - CERTIFICATION

The Town of Black Mountain does not certify minority businesses. Any business which desires to participate as a minority business under these Guidelines will be required to register and become certified as a historically underutilized business ("HUB") by the North Carolina Department of Administration Office for Historically Underutilized Businesses ("HUB Office").

Businesses seeking HUB certification are directed to:

<https://www.doa.nc.gov/divisions/historically-underutilized-businesses-hub>

Minority HUB contractors shall make a good faith effort to participate in construction projects as demonstrated by:

1. Attending the scheduled pre-bid conference.
2. Responding promptly whether or not they wish to submit a bid when contacted by the Owner or bidders.
3. Attending training and contractor outreach sessions given by the Owner, contractors, and state agencies, when feasible.
4. Participating in Mentor/Protégé programs, training, or other business development programs offered by the Owner, contractors, or state agencies.
5. Negotiating in good faith with the Owner or contractors.
6. Minority businesses that are contacted by owners or bidders must respond promptly whether or not they wish to submit a bid.

IV. MINORITY BUSINESS CONSTRUCTION CONTRACT PROVISIONS

(To be included in solicitations and contract documents)

APPLICATION:

The Guidelines for Recruitment and Selection of Minority Businesses for Participation in the Town of Black Mountain Construction Contracts are hereby made part of these contract documents.

V. MINORITY BUSINESS SUBCONTRACT GOALS

The goal for participation by minority firms as subcontractors on this project has been set at 10%.

The bidder must identify on its bid the minority businesses that will be utilized on the project with corresponding total dollar value of the bid and affidavit (Affidavit A) listing good faith efforts or affidavit (Affidavit B) of self-performance of work, if the bidder will perform work under contract by its own workforce, as required by G.S. §143-128.2(c) and G.S. 143-128.2(f).

In addition, the lowest responsible, responsive bidder must do one of the following:

1. Provide Affidavit C that includes a description of the portion of work to be executed by minority businesses, expressed as a percentage of the total contract price, which is equal to or more than the applicable goal.

OR

2. If the portion of work to be executed by minority businesses, expressed as a percentage of the total contract price, is less than the applicable goal, provide Affidavit D as well as documentation of Good Faith Efforts.

OR

3. Provide Affidavit B which includes sufficient information for the Owner to determine that the bidder does not customarily subcontract work on this type of project.

The above information must be provided as required. Failure to submit these documents is grounds for rejection of the bid.

VI. MINIMUM COMPLIANCE REQUIREMENTS

All written statements or affidavits made by the bidder shall become a part of the agreement between the Contractor and the Town of Black Mountain for performance of the contract. Failure to comply with any of these statements, affidavits, or with the minority business guidelines shall constitute a breach of the contract. A finding by the Town of Black Mountain that any information submitted either prior to award of the contract or during the performance of the contract is inaccurate, false, or incomplete shall also constitute a breach of the contract. Any such breach may result in termination of the contract in accordance with the termination provisions contained in the contract. It shall be solely at the option of the Town of Black Mountain whether to terminate

the contract for breach.

In determining whether a contractor has made good faith efforts, the Town of Black Mountain will evaluate all efforts made by the Contractor and will determine compliance in regard to quantity, diligence, and results of these efforts. Contractors are required to earn at least 50 points for good faith efforts. Failure to file a required affidavit or documentation demonstrating that the contractor made the required good faith effort, is grounds for rejection of the bid. Good faith efforts include:

1. Contacting minority businesses that reasonably could have been expected to submit a quote and that were known to the contractor or available on State or local government- maintained lists at least 10 days before the bid or proposal date and notifying them of the nature and scope of the work to be performed. (10 points)
2. Making the construction plans, specifications, and requirements available for review by prospective minority businesses, or providing these documents to them at least 10 days before the bid or proposals are due. (10 points)
3. Breaking down or combining elements of work into economically feasible units to facilitate minority participation. (15 points)
4. Working with minority trade, community, or contractor organizations identified by the Office for Historically Underutilized Businesses and included in the bid documents that provide assistance in recruitment of minority businesses. (10 points)
5. Attending any pre-bid meetings scheduled by the public owner. (10 points)
6. Providing assistance in getting required bonding or insurance or providing alternatives to bonding or insurance for subcontractors. (20 points)
7. Negotiating in good faith with interested minority businesses and not rejecting them as unqualified without sound reasons based on their capabilities. Reasons for rejection of a minority business based on lack of qualification should be documented in writing. (15 points)
8. Providing assistance to an otherwise qualified minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit, including waiving credit that is ordinarily required. Assisting minority businesses in obtaining the same unit pricing with the bidder's suppliers in order to help minority businesses in establishing credit. (25 points)
9. Negotiating joint venture and partnership arrangements with minority businesses in order to increase opportunities for minority business participation on a public construction or repair project when possible. (20 points)

10. Providing quick pay agreements and policies to enable minority contractors and suppliers to meet cash flow demands. (20 points)

VII. DISPUTE RESOLUTION PROCEDURES

Pursuant to G.S. 143-128 (f1), all disputes involving contractors on a building construction or repair project with the Town of Black Mountain shall be resolved pursuant State of North Carolina Policy G.S. 143-135.26(11).

VIII. CONSTRUCTION BID PACKAGE DOCUMENT PROVISIONS

In addition to these guidelines, there will be issued with each construction bid package provisions for providing minority business participation in the Town of Black Mountain projects.

IX. AUTHORITY

The Town Council of the Town of Black Mountain empowers the Town Manager to enforce and/or amend this policy as may be required in State law or Federal regulation. Amendments to this policy shall be documented to include date and type of revision.

X. EXHIBITS

1. Identification of HUB Certified/Minority Business Participation Form
2. State of North Carolina – AFFIDAVIT A – Listing of Good Faith Efforts
3. State of North Carolina – AFFIDAVIT B – Intent to Perform Contract with Own Workforce
4. State of North Carolina – AFFIDAVIT C – Portion of the Work to be Performed by HUB Certified/Minority Businesses
5. State of North Carolina – AFFIDAVIT D – Good Faith Efforts
6. MBE Documentation for Contract Payments – APPENDIX E

State of North Carolina AFFIDAVIT A – Listing of Good Faith Efforts

County of _____

(Name of Bidder)

Affidavit of _____

I have made a good faith effort to comply under the following areas checked:

Bidders must earn at least 50 points from the good faith efforts listed for their bid to be considered responsive. (1 NC Administrative Code 30 I.0101)

- ☐ **1 – (10 pts)** Contacted minority businesses that reasonably could have been expected to submit a quote and that were known to the contractor, or available on State or local government maintained lists, at least 10 days before the bid date and notified them of the nature and scope of the work to be performed.
- ☐ **2 --(10 pts)** Made the construction plans, specifications and requirements available for review by prospective minority businesses, or providing these documents to them at least 10 days before the bids are due.
- ☐ **3 – (15 pts)** Broken down or combined elements of work into economically feasible units to facilitate minority participation.
- ☐ **4 – (10 pts)** Worked with minority trade, community, or contractor organizations identified by the Office of Historically Underutilized Businesses and included in the bid documents that provide assistance in recruitment of minority businesses.
- ☐ **5 – (10 pts)** Attended prebid meetings scheduled by the public owner.
- ☐ **6 – (20 pts)** Provided assistance in getting required bonding or insurance or provided alternatives to bonding or insurance for subcontractors.
- ☐ **7 – (15 pts)** Negotiated in good faith with interested minority businesses and did not reject them as unqualified without sound reasons based on their capabilities. Any rejection of a minority business based on lack of qualification should have the reasons documented in writing.
- ☐ **8 – (25 pts)** Provided assistance to an otherwise qualified minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit, including waiving credit that is ordinarily required. Assisted minority businesses in obtaining the same unit pricing with the bidder's suppliers in order to help minority businesses in establishing credit.
- ☐ **9 – (20 pts)** Negotiated joint venture and partnership arrangements with minority businesses in order to increase opportunities for minority business participation on a public construction or repair project when possible.
- ☐ **10 - (20 pts)** Provided quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands.

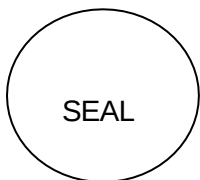
The undersigned, if apparent low bidder, will enter into a formal agreement with the firms listed in the Identification of Minority Business Participation schedule conditional upon scope of contract to be executed with the Owner. Substitution of contractors must be in accordance with GS143-128.2(d) Failure to abide by this statutory provision will constitute a breach of the contract.

The undersigned hereby certifies that he or she has read the terms of the minority business commitment and is authorized to bind the bidder to the commitment herein set forth.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____



State of _____, County of _____

Subscribed and sworn to before me this _____ day of _____ 20____ Notary Public _____

My commission expires _____

Attach to Bid Attach to Bid Attach to Bid Attach to Bid Attach to Bid Attach to Bid Attach to Bid Attach to Bid

**State of North Carolina --AFFIDAVIT B-- Intent to Perform Contract
with Own Workforce.**

County of _____

Affidavit of _____
(Name of Bidder)

I hereby certify that it is our intent to perform 100% of the work required for the _____
_____ contract.
(Name of Project)

In making this certification, the Bidder states that the Bidder does not customarily subcontract elements of this type project, and normally performs and has the capability to perform and will perform all elements of the work on this project with his/her own current work forces; and

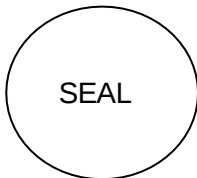
The Bidder agrees to provide any additional information or documentation requested by the owner in support of the above statement. The Bidder agrees to make a Good Faith Effort to utilize minority suppliers where possible.

The undersigned hereby certifies that he or she has read this certification and is authorized to bind the Bidder to the commitments herein contained.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____



State of _____, County of _____ Subscribed and sworn to
before me this _____ day of _____ 20 _____

Notary Public _____ My commission expires _____

State of North Carolina - AFFIDAVIT C - Portion of the Work to be Performed by HUB Certified/Minority Businesses

County of _____

(Note this form is to be submitted only by the apparent lowest responsible, responsive bidder.)

If the portion of the work to be executed by HUB certified/minority businesses as defined in GS143-128.2(g) and 128.4(a),(b),(e) is equal to or greater than 10% of the bidders total contract price, then the bidder must complete this affidavit.

This affidavit shall be provided by the apparent lowest responsible, responsive bidder within **72 hours** after notification of being low bidder.

Affidavit of _____ I do hereby certify that on the
(Name of Bidder)

(Project Name)

Project ID# _____ Amount of Bid \$ _____

I will expend a minimum of _____ % of the total dollar amount of the contract with minority business enterprises. Minority businesses will be employed as construction subcontractors, vendors, suppliers or providers of professional services. Such work will be subcontracted to the following firms listed below.

Attach additional sheets if required

Name and Phone Number	*Minority Category	**HUB Certified Y/N	Work Description	Dollar Value

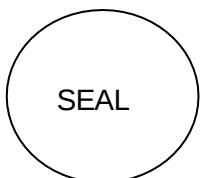
*Minority categories: Black, African American (B), Hispanic (H), Asian American (A) American Indian (I), Female (F) Socially and Economically Disadvantaged (D)

**** HUB Certification with the state HUB Office required to be counted toward state participation goals.**

Pursuant to GS143-128.2(d), the undersigned will enter into a formal agreement with Minority Firms for work listed in this schedule conditional upon execution of a contract with the Owner. Failure to fulfill this commitment may constitute a breach of the contract.

The undersigned hereby certifies that he or she has read the terms of this commitment and is authorized to bind the bidder to the commitment herein set forth.

Date: _____ Name of Authorized Officer: _____



Signature: _____
Title: _____

State of _____, County of _____
Subscribed and sworn to before me this _____ day of _____ 20____
Notary Public _____ My commission expires _____

State of North Carolina**AFFIDAVIT D – Good Faith Efforts**

County of _____

(Note this form is to be submitted only by the apparent lowest responsible, responsive bidder.)

If the goal of 10% participation by HUB Certified/ minority business **is not** achieved, the Bidder shall provide the following documentation to the Owner of his good faith efforts:Affidavit of _____ I do hereby certify that on the
(Name of Bidder)_____
(Project Name)
Project ID# _____ Amount of Bid \$ _____

I will expend a minimum of _____% of the total dollar amount of the contract with HUB certified/ minority business enterprises. Minority businesses will be employed as construction subcontractors, vendors, suppliers or providers of professional services. Such work will be subcontracted to the following firms listed below.

(Attach additional sheets if required)

Name and Phone Number	*Minority Category	**HUB Certified Y/N	Work Description	Dollar Value

*Minority categories: Black, African American (**B**), Hispanic (**H**), Asian American (**A**) American Indian (**I**), Female (**F**) Socially and Economically Disadvantaged (**D**)

**** HUB Certification with the state HUB Office required to be counted toward state participation goals.**

Examples of documentation that may be required to demonstrate the Bidder's good faith efforts to meet the goals set forth in these provisions include, but are not necessarily limited to, the following:

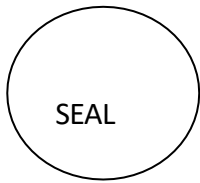
- A. Copies of solicitations for quotes to at least three (3) minority business firms from the source list provided by the State for each subcontract to be let under this contract (if 3 or more firms are shown on the source list). Each solicitation shall contain a specific description of the work to be subcontracted, location where bid documents can be reviewed, representative of the Prime Bidder to contact, and location, date and time when quotes must be received.
- B. Copies of quotes or responses received from each firm responding to the solicitation.
- C. A telephone log of follow-up calls to each firm sent a solicitation.
- D. For subcontracts where a minority business firm is not considered the lowest responsible sub-bidder, copies of quotes received from all firms submitting quotes for that particular subcontract.
- E. Documentation of any contacts or correspondence to minority business, community, or contractor organizations in an attempt to meet the goal.
- F. Copy of pre-bid roster.
- G. Letter documenting efforts to provide assistance in obtaining required bonding or insurance for minority business.
- H. Letter detailing reasons for rejection of minority business due to lack of qualification.
- I. Letter documenting proposed assistance offered to minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letter of credit, including waiving credit that is ordinarily required.

Failure to provide the documentation as listed in these provisions may result in rejection of the bid and award to the next lowest responsible and responsive bidder.

Pursuant to GS143-128.2(d), the undersigned will enter into a formal agreement with Minority Firms for work listed in this schedule conditional upon execution of a contract with the Owner. Failure to fulfill this commitment may constitute a breach of the contract.

The undersigned hereby certifies that he or she has read the terms of this commitment and is authorized to bind the bidder to the commitment herein set forth.

Date: _____ Name of Authorized Officer: _____



Signature: _____

Title: _____

State of _____, County of _____

Subscribed and sworn to before me this _____ day of _20_

Notary Public _____

My commission expires _____

APPENDIX E
MBE DOCUMENTATION FOR CONTRACT PAYMENTS

Prime Contractor/Architect: _____

Address & Phone: _____

Project Name: _____

SCO Project ID: _____

Pay Application #: _____ Period: _____

The following is a list of payments made to Minority Business Enterprises on this project for the above-mentioned period.

MBE FIRM NAME	* TYPE OF MBE	AMOUNT PAID THIS MONTH (With This Pay App)	TOTAL PAYMENTS TO DATE	TOTAL AMOUNT COMMITTED

*Minority categories: Black (B), Hispanic (H), Asian American (AA), American Indian (AI), White Female (WF), Socially and Economically Disadvantaged (SED)

Approved/Certified By:

Name

Title

Date

Signature

SUBMIT WITH EACH PAY REQUEST - FINAL PAYMENT - FINAL REPORT

7) CITIZEN COMMENTS- *none.*

8) UNFINISHED BUSINESS- *none.*

9) NEW BUSINESS

A. Consideration of Resolution Establishing Criteria for Design-Build Delivery Method for Construction Contracts.

Vice Mayor Archie Pertiller made a motion to approve the following resolution. A vote of 5-0 in favor.

**RESOLUTION BY THE TOWN OF BLACK MOUNTAIN TOWN
COUNCIL ESTABLISHING CRITERIA FOR DESIGN-BUILD
DELIVERY METHOD FOR CONSTRUCTION CONTRACT**

Resolution #R-24-03

WHEREAS, The State of North Carolina passed Session Law 2013-401 authorizing local governmental entities in North Carolina to utilize the design-build method for construction contracting pursuant § 143-128.1A. The design- build method is an integrated approach to a construction project that delivers both design (architectural and engineering) and construction services under one contract with a single point of responsibility. Under this delivery method, the Town is provided with the benefit of the design team and contractor working together to achieve the Town's objectives under a single contract. The statute requires the Town to establish written criteria for determining when the design-build method is appropriate for a project. The statute also requires the Town to use the criteria in evaluating each project contemplated for the design- build method. The statute provides the following six factors that, at a minimum, the Town must address in establishing its criteria:

1. The extent to which the Town can adequately and thoroughly define the project requirements prior to the issuance of the request for qualifications (RFQ) for a design-builder.

The design-build method may be used if it is determined that, for the project, the Town has professional staff that are qualified to thoroughly define project requirements prior to the issuance of a request for qualifications (RFQ) for a design- builder. Consideration will be given to the qualifications and experience of Town staff and the availability of professional staff in the areas of purchasing, finance, and legal to assist in the development of an RFQ.

2. The time constraints for the delivery of the project.

The design-build delivery method may be used if a project has an established date by which a facility or improvement must be operational to meet the Town's needs and a traditional delivery method (i.e. an RFQ, finalized design and specifications, bidding, and construction) is not likely to provide a finished project in a timely manner.

3. The Town's ability to ensure that a quality project can be delivered.

The design-build delivery method may be used if it is determined that, for the project, the Town has staff experienced in design and construction to help ensure that the design-build firm will provide a quality project within the budget constraints established by the Town Council.

4. The capability of the Town to manage and oversee the project, including the availability of experienced staff or outside consultants who are experienced with the design-build method of project delivery.

The design-build delivery method may be used if it is determined that, for the project, the Town has qualified staff experienced in construction administration and project management who will be involved during the design and construction of the project. However, overall, project management is a primary function of the design-build team.

5. A good-faith effort to comply with historically underutilized business participation requirements (NCGS 143-128.2, NCGS 143-128.4), and to recruit and select small business entities.

The design-build delivery method may be used if it is determined that, for the project, requirements will be imposed which ensure that contractors will comply with the M/WBE goals adopted by the town.

6. The criteria utilized by the Town of Black Mountain, including a comparison of the advantages and disadvantages of using the design-build delivery method in lieu of traditional construction and bidding methods.

- a. The project is well defined, including qualitative and quantitative characteristics, and possesses one or more unique elements that would benefit from the design-build delivery method.
- b. The project timeline is an important factor in making the facility or improvement operational within a short timeframe so as not to excessively burden Town operations.
- c. The Town has experienced staff and adequate resources to assure that a high-quality project can be delivered within the budget appropriated by the Town Council.
- d. There is a maximum budget that must be adhered to in order to allow negotiations and flexibility to make appropriate decisions in terms of scope as the project progresses.

- e. It will be necessary to have partial occupancy of a portion of the facility and/or improvement while the project construction is ongoing.
- f. The project requires good-faith efforts to comply with historically underutilized business participation requirements (NCGS 143-128.2, NCGS 143-128.4), and to recruit and select small businesses entities.
- g. As a result of a more integrated, fluid and flexible delivery process, the design- build delivery method meets the operational goals established for the facility or improvement, the desired level of quality of the finished product, and is a comparatively more desirable delivery method over traditional construction and bidding methods.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Black Mountain that this resolution is effective upon approval. Upon a motion by Vice Mayor **Archie Pertiller**, the foregoing resolution was adopted this 8th day of January 2024.

B. Consideration of Approval of Resolution Authorizing the use of the Design-Build Delivery Method for the Swannanoa River Floodbench & Wetland Construction Project# SRP-SW-ARP-0026

Angela Reece, Project and Facilities Manager, stated that staff are recommending the use of the design-build delivery method for this project to ensure a better project. Vice Mayor Archie Pertiller made a motion to approve the following resolution. The vote of 5-0 in favor.

**RESOLUTION BY THE TOWN OF BLACK MOUNTAIN TOWN COUNCIL
AUTHORIZING THE USE OF DESIGN-DESIGN BUILD DELIVERY METHOD FOR
THE SWANNANOA RIVER FLOODBENCH AND WETLAND CONSTRUCTION
PROJECT# SRP-SW-ARP-0026**

Resolution #R-24-04

WHEREAS, The State of North Carolina passed Session Law 2013-401 authorizing local governmental entities in North Carolina to utilize the design- build method for construction contracting pursuant N.C. Gen. Stat. § 143- 128.1A; and

WHEREAS, on January 8, 2024, the Town Council of the Town of Black Mountain passed a Resolution to establish criteria to be utilized by the Town when considering the design-build delivery method for Town projects (“Town of Black Mountain Design-Build Criteria”); and

WHEREAS, the Town received a \$5 million-dollar Local Assistance for Stormwater Infrastructure Investments (LASII) grant from the American Rescue Plan Act (ARPA) in March 2023; and

WHEREAS, the Town intends to use these monies to enter into agreements to design, construct,

repair, rehabilitate, or replace existing stormwater infrastructure to control stormwater quantity to mitigate flooding, improve water quality, and enhance the stability and function of the river and its riparian buffers along two project sites encompassing approximately 3,300 linear-feet area of the Swannanoa River; and

WHEREAS, 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; and

WHEREAS, due to the nature, size, scope and anticipated time schedule of the Project, the Town of Black Mountain sets forth a design-build construction method for the Project; and

WHEREAS, pursuant to North Carolina General Statute § 143-128.1A(b), “a governmental entity shall establish in writing the criteria used for determining the circumstances under which the design-build method is appropriate for a project, and such criteria shall, at a minimum, address all of the following:

1. The extent to which the Town can adequately and thoroughly define the project requirements prior to the issuance of the request for qualifications (RFQ) for a design-builder.
2. The time constraints for the delivery of the project.
3. The Town’s ability to ensure that a quality project can be delivered.
4. The capability of the Town to manage and oversee the project, including the availability of experienced staff or outside consultants who are experienced with the design-build method of project delivery.
5. A good-faith effort to comply with historically underutilized business participation requirements (NCGS 143-128.2, NCGS 143-128.4), and to recruit and select small business entities.
6. The criteria utilized by the Town of Black Mountain, including a comparison of the advantages and disadvantages of using the design-build delivery method in lieu of traditional construction and bidding methods.

WHEREAS, based upon the Town of Black Mountain Design-Build Criteria and reasons set forth herein, the Town of Black Mountain desires to proceed with the design-build method for the Floodbench and Wetland Construction Project# SRP-SW-ARP-0026 pursuant to N.C. Gen. Stat. § 143-128.1A, to construct, repair, rehabilitate, or replace existing stormwater infrastructure along two project sites identified in the Stormwater Master Plan which encompass

approximately 3,300 linear-feet area of the Swannanoa River. The first site is located on the south bank and floodplain of the Swannanoa centered near the confluence with Flat Creek (“First Site”). The second site is located between the Norfolk Southern railroad and Interstate 40, on the east bank and floodplain (“Second Site”). **A project area description and map are attached to this resolution as Exhibit A.**

1. The Town wishes to construct, repair, rehabilitate, or replace existing stormwater infrastructure to control stormwater quantity to mitigate flooding, improve water quality, and enhance the stability and function of the river and its riparian buffers along two project sites encompassing approximately 3,300 linear-feet area of the Swannanoa River.
2. The project funding is contingent on meeting all project milestones; therefore, the timeline is an important factor in complying with grant terms and conditions.
3. The Town has experienced staff and adequate resources to assure that a high-quality project can be delivered by the design-build firm within the budget and timeframe as outlined by the granting authority.
4. It will be necessary to have partial occupancy of a portion of the improvement while the project construction is ongoing.
5. The Town will make good-faith efforts to comply with historically underutilized business participation requirements (NCGS 143-128.2, NCGS 143-128.4), as applicable, and to recruit and select small businesses entities. In addition to traditional project advertisement, the Town will advertise on the State of North Carolina’s Historically Underutilized Business website and in minority business publications.
6. As a result of a more integrated, fluid and flexible delivery process, the design- build delivery method meets the operational goals established for the improvement, the desired level of quality of the finished product, and is a comparatively more desirable delivery method over traditional construction and bidding methods. The Town has reviewed the criteria for separate-prime bidding, single-prime bidding and construction management at risk and has determined that due to project scope, complexity, and time constraints that the design-build delivery method is appropriate for the construction of stormwater infrastructure for the Swannanoa River Floodbench and Wetland Construction Project# SRP-SW-ARP-0026 for the following reasons:
 - a. The design and construction of stormwater facilities is a highly specialized industry, with limited availability of contractors performing this type of work.
 - b. The traditional design-bid-build method would not allow the Town to receive the specialized services necessary to deliver the highest quality Project.

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

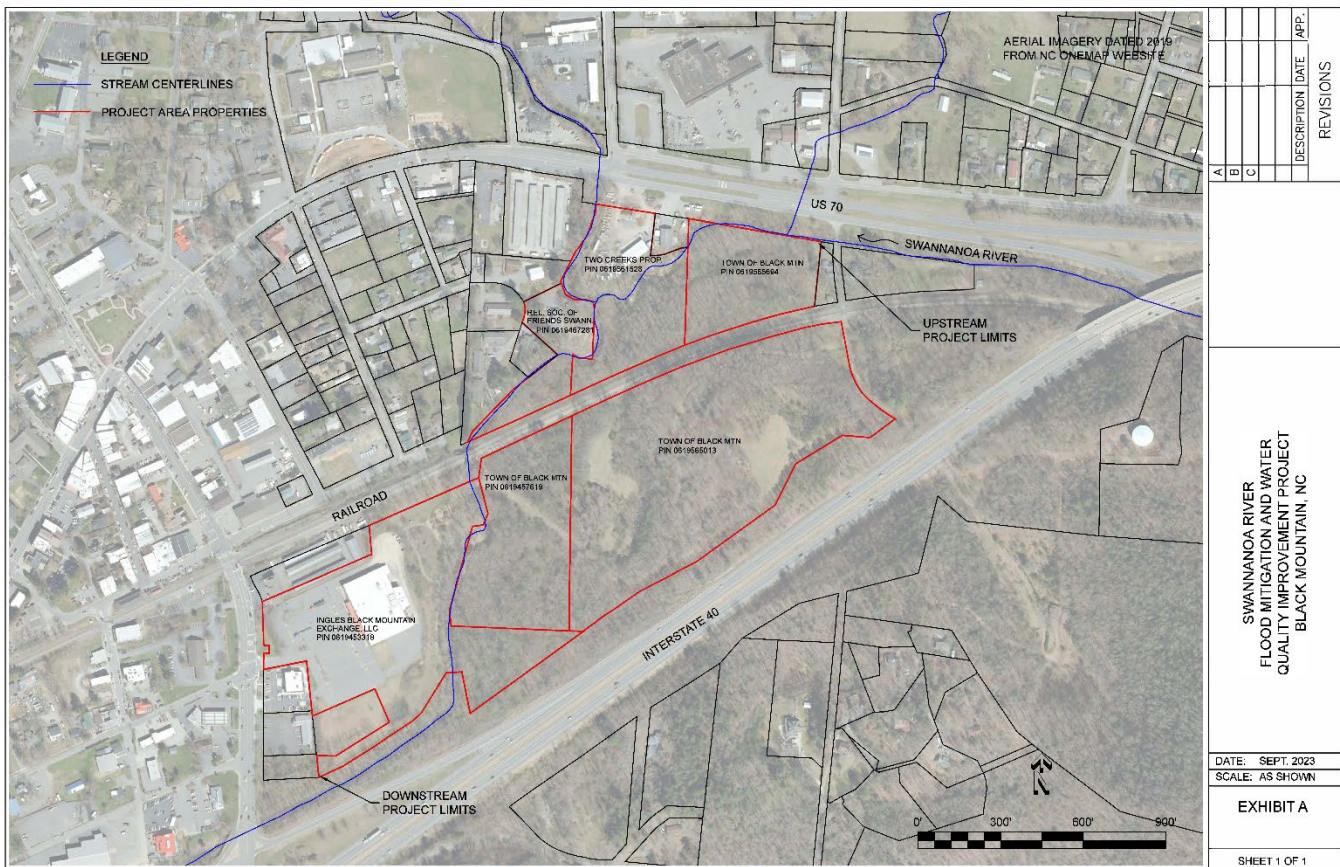
1. The Town Manager, Town Attorney and Project Manager are hereby authorized to issue

a Request for Qualifications (RFQ) for a design-builder to design, engineer, construct, repair, rehabilitate, or replace existing stormwater infrastructure to control stormwater quantity to mitigate flooding, improve water quality, and enhance the stability and function of the river and its riparian buffers along two project sites encompassing approximately 3,300 linear-feet area of the Swannanoa River

2. The Town shall make a good faith effort to comply with NCGS 143-128.2, NCGS 143-128.4, as applicable, and to recruit and select small business entities. Additionally, this RFQ shall be advertised in publications that attract minority business and historically underutilized business consideration and shall be sent to design professionals and contractors through the bidding portal on the Town's website at www.townofblackmountain.org

BE IT FURTHER RESOLVED by the Town Council of the Town of Black Mountain that this resolution is effective upon approval. Upon a motion by Vice Mayor **Archie Pertiller**, the foregoing resolution was adopted this 8th day of January 2024.

Exhibit A:



C. Consideration of Green Tee Grille Lease Renewal.

Josh Harrold, Town Manager, explained that the Green Tee Grille would like to renew the lease for the golf course snack shop. The current lease amount is \$400 per month and the lessee has requested to continue at the same rate. This lease would expire in January 2025. The Council expressed interest in exploring options for rentals in that space for special events. Council Member Doug Hay made a motion to approve the Green Tee Grille Lease Renewal for the golf course snack shop for twelve (12) months as presented. A vote of 5-0 in favor.

D. Consideration to Adopt the Creating Outdoor Recreation Economies (CORE) Strategic Plan.

Ann Bass, ARC Economic Development Planner with the NC Department of Commerce Rural Economic Division, gave a presentation to the Council highlighting this strategic plan. A CORE planning work group was assembled to create this plan consisting of local stakeholders, town staff, elected officials, and NC Commerce Rural Economic Development Division staff.

Council Member Doug Hay made a motion to adopt the following resolution. A vote of 5-0 in favor.

**RESOLUTION TO ADOPT BLACK MOUNTAIN CREATING OUTDOOR
RECREATION ECONOMIES (CORE) 2023-2028 STRATEGIC PLAN**

Resolution #R-24-05

WHEREAS, the Creating Outdoor Recreation Economies (CORE) program is made possible by a U.S. Economic Development Administration Tourism Grant; and

WHEREAS, the State of North Carolina's Supporting and Strengthening Resiliency in North Carolina's Travel, Tourism, and Outdoor Recreation Sectors Initiative was awarded \$6 million; and

WHEREAS, the CORE program offers strategic planning and technical assistance to help rural communities leverage North Carolina's abundant outdoor recreation assets to bolster local economic vitality; and

WHEREAS, the Town of Black Mountain applied to the State of North Carolina to engage with strategic planning services; and

WHEREAS, the Town of Black Mountain was one of 34 local governments accepted to participate; and

WHEREAS, through the CORE program, the Town of Black Mountain collaborated with the N.C. Department of Commerce, Rural Economic Development Division staff members, and local stakeholders to identify and develop outdoor recreation assets that present economic growth opportunities.

NOW, THEREFORE, BE IT RESOLVED, that the Town of Black Mountain Town Council adopt the Black Mountain Creating Outdoor Recreation Economies 2023-2028 Strategic Plan.

READ, APPROVED AND ADOPTED, by a vote of 5 to 0 on this 8th day of January 2024.

E. Public Safety Interoperability Program (PSIP) Agreement.

Eric Grau, Information Technology Director for Buncombe County, gave a presentation to the Town Council regarding this PSIP agreement. The goal of the agreement is to cooperatively leverage technology to improve public safety operations. This agreement is being updated to reflect the new software required, as the current software is at the end of its life. Further, a formal agreement is needed with all relevant jurisdictions to provide appropriate access to and support for public safety technology systems and data. Annual costs were discussed. Town Attorney Craig Justus requested a cost model be tied to the agreement to ensure all documentation is included and to know what town responsibilities will be going forward. Further, the Attorney stated he would like to tweak this proposed agreement before Council votes on the item.

Police Chief Steve Parker spoke on the importance of using a multi-use dispatch central location instead of each town having their own dispatch stating it is not the modern method in emergency services and public safety.

It was stated the current system will be used for at least three (3) years before any new system is switched over due to setups, etc., which is why the agreement is three (3) years instead of one (1).

The Council was in consensus to table this item until the agreement is updated and reviewed by the Town Attorney.

10) COMMUNICATION

- A.** Town Attorney Craig Justus informed the Council to contact him with any questions as they arise.
- B.** Town Manager Josh Harrold stated the Town would be closed for Dr. Martin Luther King, Jr. Day on Monday, January 15th, and there would be no disruption to the trash schedule. Josh Harrold then called on Jamey Matthews, Public Works Director, who

provided a synopsis of holiday trash overflow issues between the dates of December 28th-January 2nd.

11) COMMUNICATION FROM MAYOR AND TOWN COUNCIL

Council Member Pam King made some comments about the holiday sanitation issues and apologized to the staff on how they were treated by some members of the public.

Council Member Ryan Stone stated the issues with the holiday sanitation overflow drop off were addressed, it will not happen again, and the town can learn from the mistakes and move forward.

12) CLOSED SESSION- *none.*

13) ADJOURNMENT- *With nothing further, Mayor C. Michael Sobol adjourned the meeting at 8:38 p.m.*

C. Michael Sobol, Mayor

ATTEST:

Wesley M. Barker, Town Clerk



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Cortney Kidd, *Senior Accountant* **MEETING DATE:** February 12, 2024

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, February 12, 2024
SUBJECT: December 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	\$ 5,207,000.10
Collected	\$ 4,030,497.46
Adjustments and Releases	\$ (11,169.46)
Outstanding real and personal property taxes	<u>\$ 1,165,333.18</u>

TAX COLLECTION PERCENTAGE FOR CURRENT TAX YEAR

77.57%

PRIOR YEAR TAXE(S) COLLECTED WITHIN THE MONTH

Collected	\$ 638.75
Adjustments and Releases	\$ -

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

Ad Valorem	\$ 1,348.33
Motor Vehicle	\$ 18.92



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Tammy Holland, *Finance Director* **MEETING DATE:** February 12, 2024

AGENDA SECTION: Consent Agenda **DEPARTMENT:** Finance

TITLE OF ITEM: Amendment to Contract to Audit Accounts – *Tammy Holland, Finance Director*

SUGGESTED MOTION(S): I recommend that Town Council approve the amendment to Contract to Audit Accounts.

SUMMARY:

Amendment to Contract to Audit Accounts to extend the Fiscal Year Ending 06/30/23 audit contract. Due to the length of time required to complete the FY 2023 audit of the Town, the current contract with Gould Killian CPA Group, PA needs to be amended to conclude the audit as of 01/31/2024. The attached amendment to the audit contract will allow Gould Killian to submit final documentation to the Local Government Commission.

ATTACHMENTS:

- i. Amendment to Contract to Audit Accounts.

Whereas	Primary Government Unit Town of Black Mountain
and	Discretely Presented Component Unit (DPCU) (if applicable)
and	Auditor Gould Killian CPA Group, PA

entered into a contract in which the Auditor agreed to audit the accounts of the Primary Government Unit and DPCU (if applicable)

for	Fiscal Year Ending 06/30/23	and originally to be submitted to the LGC on	Date 10/31/23
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hereby agree that it is now necessary that the contract be modified as follows.

☐ Modification to date submitted to LGC

Original date 10/31/23	Modified date 01/31/24
Original fee	Modified fee

☐ Modification to fee

Primary Other
(choose 1)(choose 0-2)

Reason(s) for Contract Amendment

- | | | |
|----------------------------------|-------------------------------------|--|
| ☐ | ☐ | Change in scope |
| ☐ | ☐ | Issue with unit staff/turnover/workload |
| ☐ | ☐ | Issue with auditor staff/turnover/workload |
| ☐ | ☐ | Third-party financial statements not prepared by agreed-upon date |
| ☐ | ☒ | Unit did not have bank reconciliations complete for the audit period |
| ☐ | ☒ | Unit did not have reconciliations between subsidiary ledgers and general ledger complete |
| ☐ | ☐ | Unit did not post previous years adjusting journal entries resulting in incorrect beginning balances in the general ledger |
| ☒ | ☐ | Unit did not have information required for audit complete by the agreed-upon time |
| ☐ | ☐ | Delay in component unit reports |
| ☐ | ☒ | Software - implementation issue |
| ☐ | ☐ | Software - system failure |
| ☐ | ☐ | Software - ransomware/cyberattack |
| ☐ | ☐ | Natural or other disaster |
| ☐ | ☐ | Other (please explain) |

Plan to Prevent Future Late Submissions

If the amendment is submitted to modify the date the audit will be submitted to the LGC, please indicate the steps the unit and auditor will take to prevent late filing of audits in subsequent years. Audits are due to the LGC four months after fiscal year end. Indicate NA if this is an amendment due to a change in cost only.

Town is considering engaging a 3rd party to assist with audit workpaper preparation.

Additional Information

Please provide any additional explanation or details regarding the contract modification.

By their signatures on the following pages, the Auditor, the Primary Government Unit, and the DPCU (if applicable), agree to these modified terms.

SIGNATURE PAGE

AUDIT FIRM

Audit Firm* Gould Killian CPA Group, PA	
Authorized Firm Representative* (typed or printed) Daniel R. Mullinix	Signature* 
Date* 01/29/24	Email Address dmullinix@gk-cpa.com

GOVERNMENTAL UNIT

Governmental Unit* Town of Black Mountain	
Date Primary Government Unit Governing Board Approved Amended Audit Contract* (If required by governing board policy)	
Mayor/Chairperson* (typed or printed)	Signature*
Date	Email Address

Chair of Audit Committee (typed or printed, or "NA") N/A	Signature
Date	Email Address

GOVERNMENTAL UNIT – PRE-AUDIT CERTIFICATE

ONLY REQUIRED IF FEES ARE MODIFIED IN THE AMENDED CONTRACT

(Pre-audit certificate not required for hospitals)

Required by G.S. 159-28(a1) or G.S. 115C-441(a1)

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

Primary Governmental Unit Finance Officer* N/A	Signature*
Date of Pre-Audit Certificate*	Email Address*

**SIGNATURE PAGE – DPCU
(complete only if applicable)**

DISCRETELY PRESENTED COMPONENT UNIT

DPCU	
Date DPCU Governing Board Approved Amended Audit Contract (If required by governing board policy)	
DPCU Chairperson (typed or printed)	Signature
Date	Email Address

Chair of Audit Committee (typed or printed, or "NA")	Signature
Date	Email Address

DPCU – PRE-AUDIT CERTIFICATE
ONLY REQUIRED IF FEES ARE MODIFIED IN THE AMENDED CONTRACT
(Pre-audit certificate not required for hospitals)

Required by G.S. 159-28(a1) or G.S. 115C-441(a1)

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

DPCU Finance Officer (typed or printed)	Signature
Date of Pre-Audit Certificate	Email Address



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Jessica Trotman, *Planning Director* **MEETING DATE:** February 12, 2024

AGENDA SECTION: CONSENT

DEPARTMENT: Planning

TITLE OF ITEM: Mountain Heritage Trout Waters MOU

SUGGESTED MOTION(S):

Approve MOU as presented

SUMMARY:

The Mountain Heritage Trout Waters program is a cooperative effort between the N.C. Wildlife Resources Commission and local governments to encourage trout fishing as a heritage tourism activity in western North Carolina cities that are designated as a “Mountain Heritage Trout Water City.”

Currently, 17 cities are participating in the program. Each of these cities provides public access to a trout stream that runs through or is adjacent to the city. North Carolina residents and non-residents who want to fish in a stream that is designated as a Mountain Heritage Trout Water may purchase a 3-day license for \$8. The license is valid only for waters that are designated as Mountain Heritage Trout Waters. Anglers with an inland fishing license can fish in Mountain Heritage Trout Waters without a Mountain Heritage Trout Waters license.

The MOU will be provided to Wildlife Resources and it will be approved by the fisheries committee meeting at their regular July meeting. Black Mountain will be included on maps and have additional opportunities to promote urban trout fishing in Black Mountain as part of our economic development, recreational programming, and environmental engagement and education efforts.

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:

1. MOU



Promoting the Beauty, Diversity and Historical Significance of North Carolina's Trout Streams

Mountain Heritage Trout Waters encourage trout fishing as a heritage tourism activity in western North Carolina and are located in participating cities and towns that provide public access to waters running through or adjacent to the city or town.

Mountain Heritage Trout Waters are managed by the N.C. Wildlife Resources Commission. Since 1947, the agency has been dedicated to the wise use, conservation and management of the state's fish and wildlife resources.



Brook Trout

Providing Quality Trout Fishing Opportunities in Scenic, Beautiful Western North Carolina

Mountain Heritage Trout Waters provide quality fishing opportunities in popular tourist destinations in western North Carolina. The N.C. Wildlife Resources Commission, which sells the Mountain Heritage Trout Waters license, gives anglers two quick and easy ways to purchase a license:

- By phone: 833-950-0575. Hours of operation are: 8 a.m.-5 p.m., Mon.-Fri. Closed holidays.
- Online: gooutdoorsnorthcarolina.com

The license is valid for a 3-day period and costs \$8 for residents and non-residents age 16 and older. The license is valid only for waters that are designated as Mountain Heritage Trout Waters.

Write your fishing license number and valid dates on the line above.

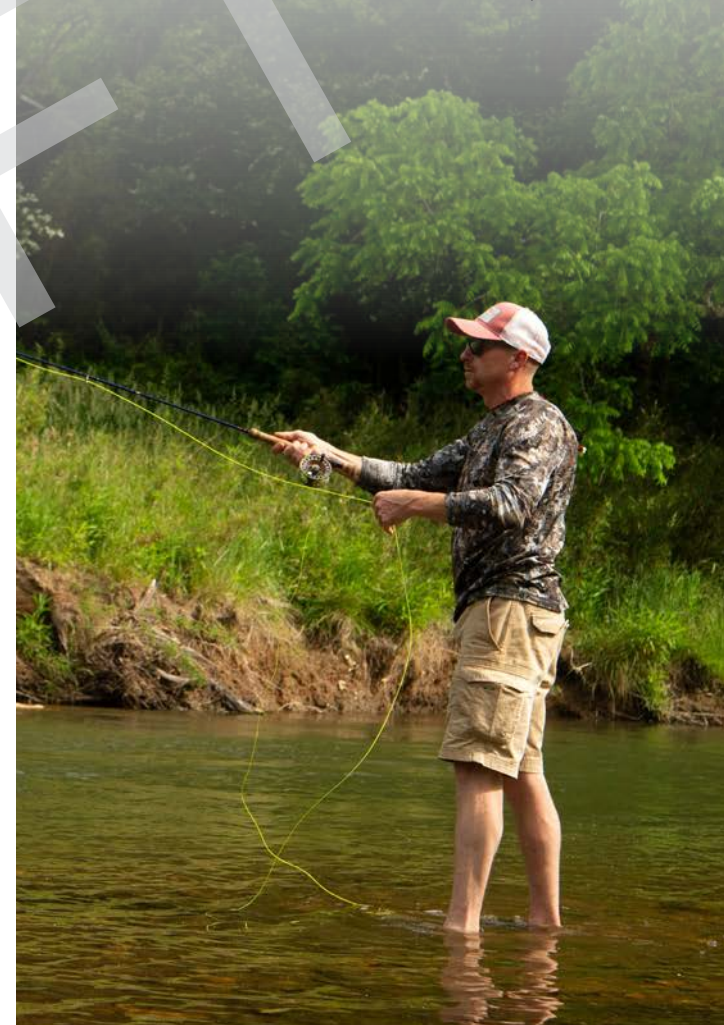


For more information on fishing in the state's public, inland waters, visit ncwildlife.org/fishing.



NC MOUNTAIN HERITAGE TROUT CITY

BLACK MOUNTAIN, N.C.



Fishing Regulations

Fishing regulations for Mountain Heritage Trout Waters, such as daily creel limits, minimum size limits and lure restrictions, are established by the N.C. Wildlife Resources Commission.

The 4.4-mile section of Swannanoa River is classified as the Black Mountain Mountain Heritage Trout Water and is a Hatchery Supported Trout Water with the following regulations:

- Open season: 7 a.m. on the first Saturday in April until the last day of February.
- Closed to fishing: March 1 until the first Saturday in April
- No bait or lure restriction
- No size limit restriction
- Seven (7) trout per day creel limit

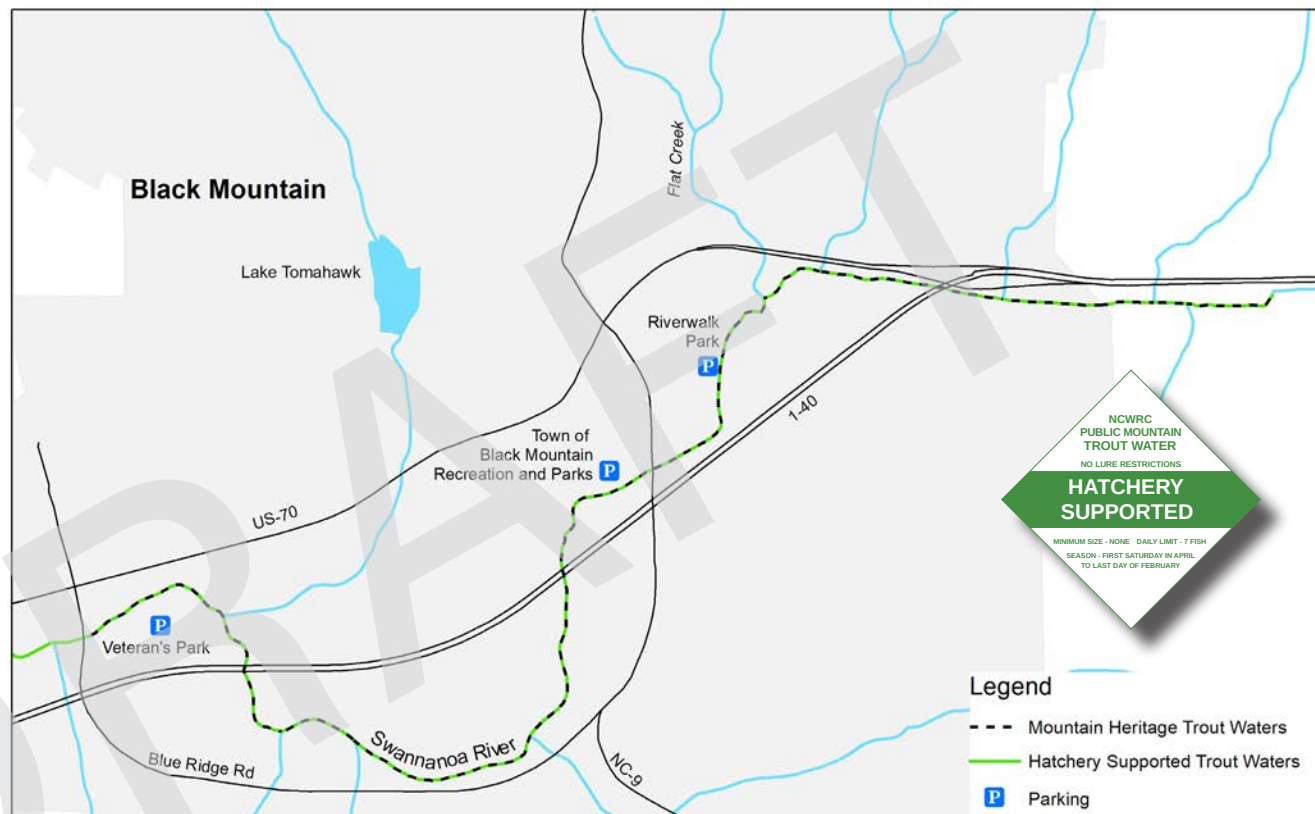


**MOUNTAIN HERITAGE TROUT WATERS LICENSE
VALID AT THIS LOCATION**

Veterans who served as a member of the Armed Forces and who separated under honorable conditions are exempt from fishing license requirements while fishing in waters designated as Mountain Heritage Trout Waters.

To qualify you must have valid documentation of your service in your possession while fishing Mountain Heritage Trout Waters.

Black Mountain-Mountain Heritage Trout Water Swannanoa River



Brook Trout

The brook trout is the only trout native to North Carolina. They have olive-green coloration on the upper sides with mottled, dark green “worm-like” markings on their backs and tails. The lower sides are lighter with yellow spots interspersed with fewer spots of bright red surrounded by blue. The lower fins are orange with a narrow black band next to a leading white edge.



Brown Trout

Native to Europe and western Asia, Brown Trout were introduced to North America in the late 1800s. It is golden-brown to olive-brown with yellowish sides. Its back and sides have dark spots encircled with light yellow or white. Some Brown Trout also have orange or red spots on their sides.



Rainbow Trout

Rainbow Trout are native to the Pacific drainages of western North America but have been introduced in mountain streams in NC. It is named for the broad, lateral stripe on its sides, which ranges from pink to red. Its back is olive-green, and its belly is whitish with heavy black speckling on all fins and the entire body.

MEMORANDUM OF AGREEMENT

between

TOWN OF BLACK MOUNTAIN

and the

NORTH CAROLINA WILDLIFE RESOURCES COMMISSION

for recognition as a

MOUNTAIN HERITAGE TROUT CITY

THIS AGREEMENT, made and entered into this 12th day of February 2024, by and between the Town of Black Mountain, North Carolina, hereinafter called the **Town**, and the North Carolina Wildlife Resources Commission, hereinafter called the **Commission**;

WITNESSETH:

Whereas, the **Commission** is authorized to conduct a program of fishery management for the benefit of the citizens of North Carolina; and

Whereas, the **Commission** is authorized to establish and implement a Mountain Heritage Trout Waters Program; and

Whereas, it is desirable for the **Town** to participate in the Mountain Heritage Trout Waters Program in order to promote the goals of said Program;

Now, therefore, in consideration of the mutual advantages likely to result from this agreement and the respective obligations assumed herein,

THE COMMISSION AGREES:

1. To provide technical assistance required to execute this Agreement;
2. To delineate an agreed segment of the Swannanoa River within which the Mountain Heritage Trout Waters fishing license will be valid;
3. To incorporate the specific segment of the Swannanoa River into rule or regulation consistent with other Designated Public Mountain Trout Waters;

4. To design a **Town**-specific brochure to inform the public of the existence and elements of the Mountain Heritage Trout Waters Program; and
5. To formally recognize the **Town** as a Mountain Heritage Trout City.

THE TOWN AGREES:

1. To secure unrestricted public access through lease agreement, easement, or other means to the agreed segment of the Swannanoa River;
2. To permit ingress, egress and regress to **Commission** personnel engaged in executing this Agreement; and
3. To produce and distribute the **Town**-specific brochure designed by the **Commission** to inform the public of the existence and elements of the Mountain Heritage Trout Waters Program.

IT IS MUTUALLY AGREED:

1. That this Agreement shall become effective as soon as signed by both parties;
2. That this Agreement may be amended only by mutual agreement of the parties and may be terminated in its entirety for cause by either party upon sixty (60) days written notice to the other party;
3. That this Agreement is made under and shall be governed by and construed in accordance with the laws of the State of North Carolina, without regard to its conflict of laws rules, and within which State all matters, whether sounding in contract, tort or otherwise, relating to its validity, construction, interpretation and enforcement shall be determined;
4. That the parties shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business and its performance in accordance with this Agreement, including those of federal, state, and local agencies having jurisdiction and/or authority;
5. That during, and after the term hereof during the relevant period required for retention of records by State law (G.S. 121-5, 132-1 et seq., typically five years), the State Auditor and any Purchasing Agency's internal auditors shall have access to persons and records related to this Agreement to verify accounts and data affecting performance under the Agreement, as provided in G.S. 143-49(9). However, if any audit, litigation or other action arising out of or related North Carolina General Terms and Conditions in any way to this project is commenced before the end of the such retention of records period, the records shall be retained for one (1) year after all issues arising out of the action are finally resolved or until the end of the record retentions period, whichever is later;

6. That neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations as a result of events beyond its reasonable control, including, without limitation, fire, power failures, any act of war, hostile foreign action, nuclear explosion, riot, strikes or failures or refusals to perform under subcontracts, civil insurrection, earthquake, hurricane, tornado, other catastrophic epidemic or pandemic, natural event or Act of God;
7. That notwithstanding any other term or provision in this Agreement, nothing herein is intended nor shall be interpreted as waiving any claim or defense based on the principle of sovereign immunity or other State or federal constitutional provision or principle that otherwise would be available to the State under applicable law; and
8. That nothing in this Agreement shall obligate either party to any conditions not specifically stated herein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first written above.

Approved and agreed to:

Town Official

North Carolina Wildlife Resources Commission

Date

Date



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Josh Henderson, *Recreation & Parks Director*

MEETING DATE: February 12, 2024

AGENDA SECTION: OLD BUSINESS

DEPARTMENT: Recreation & Parks

TITLE OF ITEM: Lake Tomahawk Playground

SUGGESTED MOTION(S): Approve the updated costs and project as presented.

.

SUMMARY:

In FY 23-24 \$100,000 was budgeted to fund upgrades to the current playground at Lake Tomahawk. After some discussion by the town council at the December 11, 2023 meeting it was decided to pursue the attached design for purchase and installation of additional playground elements to be located to the right of the current playground structure. The attached design and cost include (3) new STEM play elements, along with new swings, painting of the current playground structure to match the new elements, pour-in-place surfacing and associated site preparation.

BUDGET IMPACT: \$144,802.99 **REVISED: \$147,279.83 to reflect 2024 pricing.**

Is this expenditure approved in the current fiscal year budget?

If no, describe how it will be funded.

ATTACHMENTS:

- PowerPoint slides
- Project Estimate

Lake Tomahawk Playground Upgrades

Background

- Current playground was installed around 2004.
- 2020: the current playground surfacing was upgraded from mulch to pour-in-place(PIP) by way of an eagle scout project.
- 2023: \$100,000 budgeted from ARPA funds for playground upgrades

Design



Costs

- Includes:
 - New elements: freestanding swing set, (3) STEM play elements, nature play stumps: \$53,571 **Revised 2024 Amount: \$56,143**
 - Installation: \$15,000
 - Shipping: \$2,850
 - Pour-in-place (PIP) surfacing: \$51,612
 - Repainting of current structure: \$4,000
 - Site prep for PIP surfacing: \$13,654

\$144,802.99 (incl. tax & company discount)

Revised: \$147,279.83 (incl. tax & company discount)



36 Diane Street
Pittsboro, NC 27312

Quotation

Date	Estimate #
1/22/2024	17467

Name / Address

Black Mountain Parks and Recreation
101 Carver Ave
Black Mountain, NC 28711

Terms	Rep	Project
Net 30	AKB	Lake Tomahawk Park

Item	Description	Qty	U/M	Rate	Total
BCI Burke	BCI Burke custom drawing #405-175911-2 User Capacity:39 Age Groups:5 to 12 Dimensions:65' 8"x33' 10"	1	ea	53,571.00	53,571.00T
Discount	Barrs Recreation Courtesy Savings Amount			-5,357.10	-5,357.10
Freight	Freight - This price is good for 30 days from the date of this estimate, and must be re-calculated if your order is placed after that time frame.			2,850.00	2,850.00T
Installation	Installation of your commercial equipment completed in a prepared site that is level within 2% grade and has a surface of compacted soil only. An owner representative must be on site when the install crew arrives to confirm layout of the equipment. In atypical soil situations where rock/concrete are encountered such that a rock hammer or other heavy equipment is needed to complete the job, additional fees will be discussed. **Unless otherwise indicated, this does not include Permit Fees			15,000.00	15,000.00T
Surfacing	PIP surfacing covering 66' x 34' with an 8' critical fall height. Includes stone sub base, installation and freight.	2,244	Sq...	23.00	51,612.00T
Service	Paint existing structure posts and accessories to match new equipment			4,000.00	4,000.00T
Concrete	Concrete curbing following the perimeter of 3 sides. Other side has existing wood borders. Supply and install	200	ea	29.00	5,800.00T
Service	Excavation of new area 66' x 34' to flush with grade and same height as existing playground. Haul off dirt via dumpster	2,244		3.50	7,854.00T
	***Removal of existing swings, ewf surfacing and wood borders to be the responsibility of Black Mountain Parks and Recreation				

All purchases subject to a 8 - 10 week delivery schedule (dependant on manufacturer), unless otherwise noted. This quote is valid for 30 days. Payment terms are issuance of a PO, or 50% deposit with order, balance due upon delivery (or completion of installation if we are providing that service).To accept this quotation, please sign and date on line below, and fax to (919) 781-5779 Thank you for your consideration.
If an order is cancelled after production begins, there will be a 35% re-stocking fee

Subtotal

Sales Tax (7.0%)

Total

Phone #	Toll Free Phone	E-mail	Web Site
919-781-4870	800-909-PLAY	info@barrsrec.com	www.barrsrec.com

Date	Estimate #
1/22/2024	17467

Name / Address
Black Mountain Parks and Recreation 101 Carver Ave Black Mountain, NC 28711

Terms	Rep	Project
Net 30	AKB	Lake Tomahawk Park

Item	Description	Qty	U/M	Rate	Total
811	1)811 Locate is ordered by Barrs Recreation prior to each job that requires digging. 811 can only mark public utility lines. It is the responsibility of the Purchaser to clearly mark all private lines before we arrive to the site. Barrs Recreation is not responsible for damage to unmarked private lines. Unmarked private lines could result in additional installation fees.	1	ea	0.00	0.00
Supplemental ...	In addition to BCI Burkes 100% Non-prorated warranty, Barrs Recreation offers Value Added Service of 100% FREE replacement costs on all warranted BCI Burke products if installed by Barrs Recreation throughout the duration of the warranty period. The warranted items are shipped directly to Barrs Rec and are installed FREE OF CHARGE by our qualified installer(s). This results in Zero out-of-pocket costs to our customers on all warranted Burke Products. Our commitment to higher quality products and service makes this possible.			0.00	0.00T
Security	Barrs Recreation does not take responsibility for, nor provide overnight security on your job site. Caution tape or Orange mesh safety fence surrounding the area will be provided. If you have needs beyond this measure a quote can be provided to you. Barrs Recreation will not be responsible for theft or damage that may happen on the site while our crew is not present.			0.00	0.00T
Hub 1	Barrs Recreation – certified with the North Carolina Department of Administration as a Minority and Women Business Enterprises (MWBE) Historically Underutilized Business (HUB) and listed in the Statewide Uniform Certification (SWUC) Program database.			0.00	0.00
Delay of Instal...	Barrs Recreation will work with the customer to establish an installation schedule. If the site is not ready at the agreed upon date, the customer is required to pay for the equipment and freight within 10 working days. Additional customer fees will be generated if our crew off-loads the equipment and/or if the equipment cannot be safely stored at your facility.	1	ea	0.00	0.00T

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Phone #	Toll Free Phone	E-mail	Web Site	
919-781-4870	800-909-PLAY	info@barrsrec.com	www.barrsrec.com	

Subtotal \$135,329.90

Sales Tax (7.0%) \$9,473.09

Total \$144,802.99



REVISED QUOTE

Quotation

Date	Estimate #
2/8/2024	17541

*Revised Quote
for 2024*

Name / Address
Black Mountain Parks and Recreation 101 Carver Ave Black Mountain, NC 28711

Terms	Rep	Project
Net 30	AKB	Lake Tomahawk Park

Item	Description	Qty	U/M	Rate	Total
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Freight	Freight - This price is good for 30 days from the date of this estimate, and must be re-calculated if your order is placed after that time frame.			2,850.00	2,850.00T
Installation	Installation of your commercial equipment completed in a prepared site that is level within 2% grade and has a surface of compacted soil only. An owner representative must be on site when the install crew arrives to confirm layout of the equipment. In atypical soil situations where rock/concrete are encountered such that a rock hammer or other heavy equipment is needed to complete the job, additional fees will be discussed. **Unless otherwise indicated, this does not include Permit Fees			15,000.00	15,000.00T
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REVISED QUOTE

Quotation



36 Diane Street
Pittsboro, NC 27312

Date	Estimate #
2/8/2024	17541

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Security	Barrs Recreation does not take responsibility for, nor provide overnight security on your job site. Caution tape or Orange mesh safety fence surrounding the area will be provided. If you have needs beyond this measure a quote can be provided to you. Barrs Recreation will not be responsible for theft or damage that may happen on the site while our crew is not present.			0.00	0.00T
Hub 1	Barrs Recreation – certified with the North Carolina Department of Administration as a Minority and Women Business Enterprises (MWBE) Historically Underutilized Business (HUB) and listed in the Statewide Uniform Certification (SWUC) Program database.			0.00	0.00
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If an order is cancelled after production begins, there will be a 35% re-stocking fee

Subtotal \$137,644.70

Sales Tax (7.0%) \$9,635.13

Total \$147,279.83

Phone #	Toll Free Phone	E-mail	Web Site
919-781-4870	800-909-PLAY	info@barrsrec.com	www.barrsrec.com



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Jessica Trotman, *Planning Director* **MEETING DATE:** February 12, 2024

AGENDA SECTION: RESOLUTION **DEPARTMENT:** Planning

TITLE OF ITEM: Resolution to apply for the Streamflow Rehabilitation Program (StRAP) Grant for stream debris removal along Flat Creek River

SUGGESTED MOTION(S):

To approve the resolution to apply through the Streamflow Rehabilitation Program (StRAP) grant for stream bank restoration along Flat Creek River

SUMMARY:

The Town has successfully received StRAP funding in 2022 and 2023 for stream debris removal along the Swannanoa River. The Town would like to apply for additional funding in 2024 for stream bank restoration along Flat Creek River.

This grant has no required matching funds. The funding is provided by the North Carolina Department of Agriculture.

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:

1. *Resolution*

RESOLUTION #

**RESOLUTION TO APPLY FOR STREAMFLOW
REHABILITATION PROGRAM (StRAP) GRANT FOR FLAT
CREEK RIVER**

WHEREAS, the StreamFlow Rehabilitation Program (StRAP) was created by the NC General Assembly; and

WHEREAS, StRAP provides grants to projects that help reduce flooding and restore streams across North Carolina; and

WHEREAS, StRAP allocates money for projects that protect and restore the integrity of drainage infrastructure of North Carolina's waterways; and

WHEREAS, the Town of Black Mountain applied for funding for stream debris removal along the Swannanoa River in 2022; and

WHEREAS, the Town of Black Mountain received \$6,940 in StRAP funding in 2022; and

WHEREAS, the Town of Black Mountain cleared one debris jam consisting of four trees along the Swannanoa River near Riverwalk Park; and

WHEREAS, the Town of Black Mountain applied for additional funding in 2023 to continue stream debris removal along the Swannanoa River; and

WHEREAS, the Town of Black Mountain received an additional \$71,816.00 in StRAP funding; and

WHEREAS, the StRAP program does not require any matching funds from the Town of Black Mountain ;and

WHEREAS, the Town of Black Mountain seeks to apply for funding for stream bank restoration along Flat Creek River.

NOW THEREFORE, BE IT RESOLVED that the Black Mountain Town Council bless Town staff to apply for funding through the StRAP for stream bank restoration along Flat Creek River.

I move and adopt the foregoing resolution:

Council Member

READ, APPROVED AND ADOPTED, by a vote of _____ to _____ on this 12th day of February 2024.

C. Michael Sobol, Mayor

ATTEST:

Wesley M. Barker, Town Clerk

Josh Harrold, Town Manager



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Josh Henderson, *Recreation & Parks Director* **MEETING DATE:** February 12, 2024

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

TITLE OF ITEM: Dr. John Wilson Community Garden Strategic Plan

SUGGESTED MOTION(S): Adopt the plan as presented.

.

SUMMARY:

Staff and representatives from the Friends of the Community Garden have been working to develop a 10-year strategic plan for the future of the Dr. John Wilson Community Garden. This plan outlines the following: history, mission, vision, achievements, operational goals, capital goals, programmatic goals, and recommendations from the comprehensive recreation master plan.

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:

- PowerPoint slides
- Draft of strategic plan

10-Year Strategic Plan

For the Dr. John Wilson Community Garden

Presented January 2024 by Lucille Nelson, Garden Manager





Agenda

- What happens at the Community Garden?
- Our recent accomplishments
- The proposed strategic plan
 - Operational goals
 - Capital goals
 - Programmatic goals
 - Priorities and WHYs
- The impact you are making through the programs of the DRJWCG

Current Programs



Rental plots

Donation to Bounty & Soul

Volunteer workdays

Internships

Educational Workshops

Composting drop-off

Food Forest

Invasive species management

Current Programs – Grow, Share, Educate



- Over 100 gardeners in 84 rented plots
- Over 5000 square feet of annual growing space growing for donation to Bounty & Soul
- Over 100 perennial fruit and nut trees
- 8 educational workshops in 2023, 10 planned for 2024
- Internships
- Over 400 individual volunteers per year
- 15+ community partners including AYM, WWC, Bounty & Soul, Montreat, and more
- Composting drop-off
- Maintaining ecology and beauty within the park

Accomplishments from 2023

- Full-time manager
- 5,416 pounds produce in 2023
- 2,170 volunteer hours recorded
- 7,900 pounds of kitchen waste composted
- 48 groups from partner organizations
- Digital harvest log: easy to share with partners to support grant-writing,
 - [Example Harvest Page](#)
- Interns created a [resource page](#) for Gardeners which will be linked on the Town website in the future
- This Strategic Plan!





Looking forward

Goals for the next 10 years



Operational Goals



- **Site plan**
- **Repair barn structure**
- **Potable water**
- **Upgrade irrigation water filtration**
- Build covered sitting areas
- Inspect rain barrels
- Repair leaf collection bins
- Electricity
- Improve tool storage
- Upgrade signage
- Assistant Garden Manager

Rotting boards pose a risk for people in the barn



Capital Goals



- Greenhouse and coldframes
- Permanent bathrooms
- New structure to support operations and programs
- Acquire contiguous property



A previously proposed design idea

Programmatic Goals



Strengthen
connections



Care for what
we have



Keep our
program
adaptable

- Share systems with other growers and partners
- Enrich internship curriculum
- Continue professional development
- Improve perennial care
- Increase visibility
- Expand participation



Impacts the Town Makes through the DRJWCG

- Reducing waste through composting
- Educating our residents to improve health and resilience
- Providing access to local, healthy foods
- Providing space for community building
- Maintaining beauty and ecology of park
- Bringing pride for residents and attracting visitors



Black Mountain's Community Garden is a model

Let's stay at the forefront





Thank you

Strategic Plan for the Dr. John Wilson Community Garden (Draft)

1. Dr. John Wilson Community Garden – History, Mission, Vision, and Achievements

Dr. John Wilson, a Black Mountain pediatrician, established the first iteration of the community garden in 2004. He understood the interrelated importance of people 1) growing and eating nutrient-dense food, 2) staying active and being outside, and 3) building relationships with neighbors and community. The community garden's **Mission: "Grow, Share, Educate"** exemplifies and aligns with several aspects identified in the Town of Black Mountain's 2021 Comprehensive Plan (Elevate Black Mountain), the 2022 Black Mountain Recreation and Parks Long Range Plan, and the 2023 Buncombe County Health Assessment & Improvement Plan, referenced below.

Created to encompass the needs of future generations, the Dr. John Wilson Community Garden (DRJWC Garden) **Vision Statement** is: **"To establish community gardens as an essential and effective strategy to create and maintain thriving healthy relationships between the earth and all living organisms, and thereby remedy the complex challenges of food security and wellness for the people of Black Mountain."** Programmatically, the DRJWC Garden aspires to be a model for community gardens in our region and beyond by sharing methods, systems and expertise.

The DRJWC Garden contributes to the town's economic development by providing access to local foods, directly addressing Elevate Black Mountain's Goal 4.6 (A connected food economy with access to local foods). The Garden donates 5,000-6,000 pounds of produce per year to Bounty & Soul to be distributed to those in need. Additionally, the Garden attracts tourists and residents as a destination to enjoy. See Goal 2.6. (An active environment that supports physical activity and healthy living) and Goal 3.2. (Conserved Green spaces).

The DRJWC Garden also advances Elevate Black Mountain's Goal 3.3 (A sustainable and resilient watershed that uses natural approaches to address stormwater) and Action Items A.3.3 (Reduce waste) and A.3.5 (Conduct stream restoration and preservation). The DRJWC Garden has a composting system which received 6,800 pounds of kitchen waste during 2022 and is seeing increased use in 2023. In partnership with Warren Wilson College, the garden is working to restore land along the Swannanoa River bank. The Garden's numerous ecological impacts include improving soil fertility, increasing biodiversity, and educating home growers on organic methods of production thereby reducing damaging chemical use on land in Black Mountain.

Buncombe County's 2023 Health Assessment identified diabetes, heart disease, cardiovascular disease, and mental health problems as major health challenges. The Garden promotes good physical, mental, and social health of the people involved through its programs. Annually, over 400 people volunteer to work in the Garden; in 2022, recorded volunteer hours totaled 2,124. Over 100 people rent plots in the garden.

2. TOBM 2022 Recreation and Parks Master Plan Recommendations for the Garden

- I. A Site-Specific Park Master Plan should be implemented and include community input (p. 91), (see 3.a. below).
- II. The existing metal roof shed should be replaced with a new barn type structure that includes an office and classroom (p. 91), (see 4.c. below).
- III. An accessible walking path should be constructed from the parking area. Newly constructed amenities must meet ADA requirements (p. 91), (see 3.a., 3.c. and 4.a., 4.b., and 4.c. below).
- IV. Water and sewer service should be extended to the site (p. 91), (see 3.d., 3.e., 4.b., and 4.c. below).
- V. Increase the Garden's marketing presence via the Town website and other social media (p. 91), (see 5.e. below).
- VI. Facility needs regular staffing (p. 91), (see 3.k. below).

VII. Contiguous property should be acquired if possible (p. 85), (see 4.d. below).

3. Operational Goals (< \$25K/goal) for the next 2 years (2024 - 2026)

- a. *Create a site plan to guide future structures and hardscaping.* Long-term goals include bathrooms, a greenhouse/glasshouse, and a new facility. Result: supporting document for long-term goals. Conceptual site plan is in development at the time of this document.
 - i. Action items:
 1. Gather relevant existing data on site
 2. Find consultant and invite to site
 3. Hold charette to get community input
 4. Draw up conceptual site plan
- b. *Repair/improve barn structure.* The barn has many leaks, rotting floorboards, and wall structure is compromised. This is a risk to employees, volunteers, and gardeners working in the barn and prevents appropriate storage for tools, amendments, and seeds. Result: safe work environment.
 - i. Action items:
 1. Building inspector site visit completed; report expected soon
 2. Price out job - Estimate \$20K
- c. *Build inviting covered sitting areas.* Result: Multipurpose, accessible areas for visitors and gardeners to gather for educational events and for enjoyment and connection.
 - i. Action items:
 1. Research options for structures once the conceptual site plan has been completed.
 2. Price out job
- d. *Pipe municipal potable water to the garden for drinking and handwashing.* Result: improve sanitation, reduce risks of dehydration or water-borne diseases for citizens by providing easier access to clean, drinkable water.
 - i. Action items:
 1. Site potable water spigots
 2. Price out job
 3. Potentially implement project through Public Works Department
- e. *Upgrade irrigation water from Swannanoa River with a filtration system.* Result: improve sanitation, decrease risk of water-borne illnesses spreading to food crops.
 - i. Action items:
 1. Request filtration system plan from Craig Siska
 2. Price out project - Estimate \$12 - \$15K
- f. *Inspect and sanitize rain barrels behind Grey Eagle.* Result: improve sanitation, decrease risk of water-borne illnesses spreading to food crops.
 - i. Action items:
 1. Price out project
 2. Implement project through Public Works Department
- g. *Repair leaf collection bins.* The collection bins are falling apart. Leaf donations from local landscaping businesses and Town leaf collection are used in the garden to mulch beds and build soil. Result: sturdier long-term structures and ability to divert more organic waste from landfill.
 - i. Action items:
 1. Price out project - Estimate \$15K
 2. Implement project through Public Works Department
- h. *Run electricity to the barn for 4-5 outlets.* Result: Provide a safe environment, lighting, and ability to charge tools and equipment.

- i. Action items:
 - 1. Determine where power line ends
 - 2. Receive consult on necessary work to run power and set up outlets
 - 3. Price out project
 - 4. Implement project through Public Works Department or contractor
- i. *Improve tool storage security through labeling and better storage.* The garden owns many high-quality tools used by volunteers, gardeners, and interns. Result: provide best care for Town property by reducing lost/stolen tools.
 - i. Action items:
 - 1. Make plan for resilient, visible labeling
 - 2. Label and inventory all tools
 - 3. Make a plan for secure and organized storage of tools
 - 4. Include tool storage needs in plans for future greenhouse and/or barn plans
- j. *Upgrade and/or replace current signage.* Result: Increase awareness of the DRJWC Garden's programming and reduce improper harvesting by passersby.
 - i. Action items:
 - 1. Design signs
 - 2. Site areas to install signage
 - 3. Price out - Estimate \$9K
 - 4. Have signs made and installed
- k. *Create an Assistant Garden Manager position.* Explore various options to fulfill needs (Americorp, internship, part-time staff, contractor). Result: properly meet the increasing breadth and demands of the program.
 - i. Action items:
 - 1. Determine job description
 - 2. Research options and funding sources
 - 3. Fill position

4. Capital Goals ($\geq$ \$25K/goal) for the Next 7 Years (2024 - 2030)

3-5 Year Goals

- a. *Build a glasshouse/greenhouse and cold frames.* Since 2022, the Town has had to pay approx. \$2K/year for seedlings that were previously donated by Banner Greenhouses. Result: ability to start seedlings, reducing costs for the Town, extension of growing season, and an additional resource for the gardeners. 2023 cost estimate: \$75-\$85K

5-7 Year Goals

- b. *Install permanent public bathrooms.* Currently, the Garden's Port-a-Jon is used heavily by disc-golfers, greenway trail users, gardeners, and volunteers. Result: more comfortable and sanitary experience for all Garden and Park users. 2023 cost estimate: \$100 - \$150K
- c. *Build a new structure to properly support the garden's operation and programming.* The insufficient, open-air structure limits programming: workshops are weather-dependent; shelf storage is lacking; the open environment increases damage to tools and equipment; mice damage materials; and the garden cannot process any crops. Result: With an upgraded facility, the Garden could increase yield, provide a more robust array of educational opportunities and programming, and be a highlight for the Town. 2023 cost estimate: \$650K
- d. *Contiguous Property Acquisition:* Per the Recreation and Parks Master Plan, when property that is contiguous to existing parks becomes available, all reasonable efforts should be made to acquire the property.

5. Programmatic Goals ($\leq$ \$2K/goal) for the next 5 years (2024 - 2028)

The DRJWC Garden is already established as a model program. Through each of the following goals, the DRJWC Garden aspires to model organized management, conscious leadership, environmental stewardship, and preventative care for communities. Achieving these goals will increase the impact and value of the DRJWC Garden and community gardens throughout the region.

- a. *Share management systems with other community gardens, nonprofit farms, and other aligned growers (e.g.: harvest and planting data records, composting systems, and volunteer engagement processes).* Currently in process. Result: increase connectivity and knowledge sharing among local food growers which will positively impact the area's economy.
- b. *Enrich curriculum for the internship program.* Currently in process. Result: Broadened intern experiences by providing in-depth educational opportunities.
- c. *Pursue professional development for Garden Manager.* Currently in process. Result: grow capacity, creativity, and effectiveness of manager.
- d. *Improve care of existing garden perennials and increase number of food-bearing trees on property.* Result: healthier trees will produce more food and provide shade, diversity, and beauty.
- e. *Increase Garden's visibility through social media and marketing via the Town's website, email, Facebook, Instagram, etc., as well as continued partnerships and other viable avenues.* Result: more engagement and recognition from residents and visitors.
- f. *Expand participation in educational programs and events hosted by the Garden.* Result: reach a wider audience with education about healthy living, gardening, ecological resilience, etc.



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Josh Henderson, *Recreation & Parks Director*

MEETING DATE: February 12, 2024

AGENDA SECTION: NEW BUSINESS

DEPARTMENT: Recreation & Parks

TITLE OF ITEM: Cragmont Park Renovations

SUGGESTED MOTION(S): Provide direction for next steps

.

SUMMARY:

In FY 23-24 \$492,000 was budgeted to fund renovations at Cragmont Park. Those renovations included:

Restrooms: \$100,000

Parking Lot Paving: \$45,000

Path Paving: \$42,000

Basketball Court Repairs: \$65,000

Tennis Court Repairs: \$70,000

Pickleball Courts: \$120,000

After gathering estimates from various contractors, those estimates exceed the budgeted amounts for these renovation project elements. Staff needs direction from council on how they would like to proceed with executing this park renovation project.

BUDGET IMPACT: \$999,559.00 (avg)

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

If no, describe how it will be funded. Budget amendment to the current \$492,000

ATTACHMENTS:

- PowerPoint slides

Cragmont Park Renovation

Cost Comparison



Design



Current Conditions



Current Conditions



Current Conditions



Current Conditions



Current Conditions



Current Conditions



Current Conditions



Current Conditions



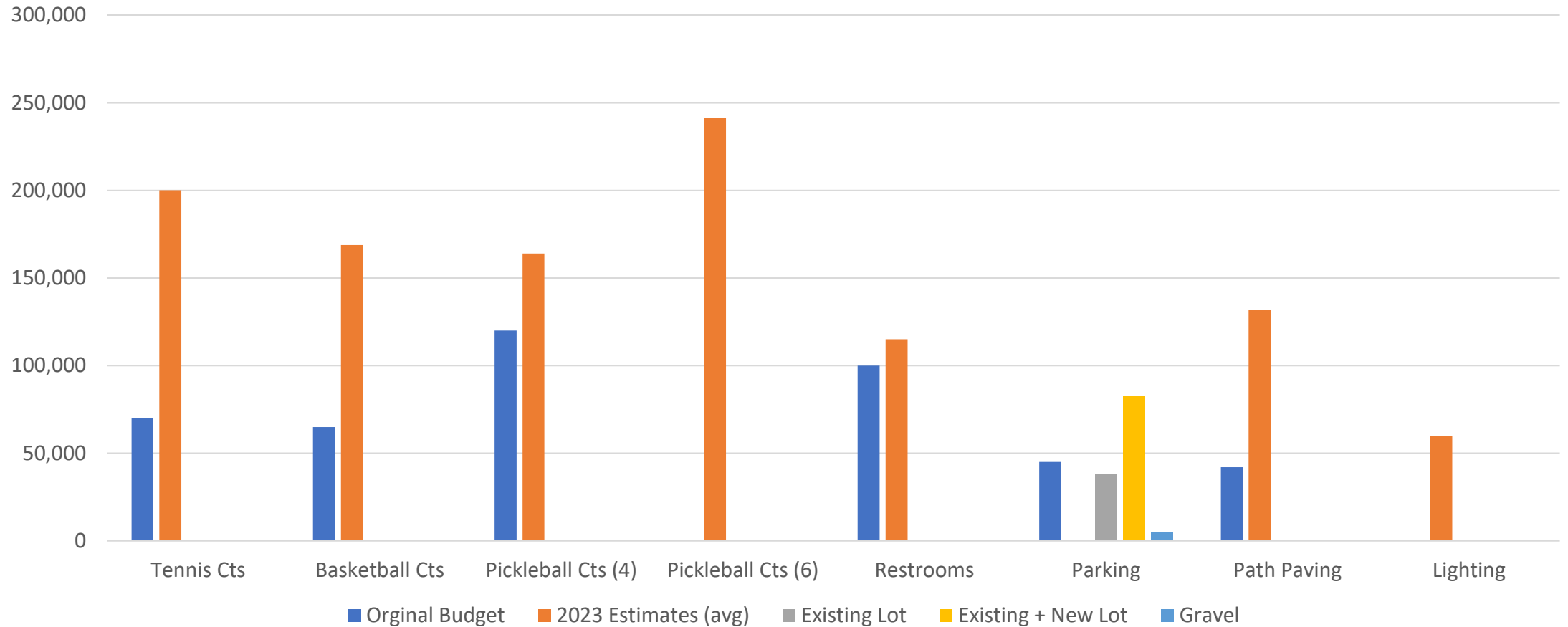
Original Budget

- Tennis Courts: \$70,000
- Basketball Courts: \$65,000
- Pickleball Courts (4): \$120,000
- Restrooms: \$100,000
- Parking: \$45,000
- Path Paving: \$42,000
- Park Safety Lighting: \$0.00

2023 Estimates (avg)

- Tennis Courts
 - Rehab: \$31,253 (1 est)
 - New: \$200,160
- Basketball Courts: \$168,765
- Pickleball Courts
 - 4: \$163,924
 - 6: \$241,279
- Restrooms: \$115,090
- Parking
 - Existing Lot: \$38,350
 - Existing + New Lot: \$82,500
 - Gravel: \$5,000
- Path Paving: \$131,675
- Park Security Lighting: \$60,000

Original Budget vs. 2023 Estimates (avg)



Talbot Tennis

- Tennis Courts
 - Repair: \$31,253
 - Rebuild: \$150,642
- Basketball Courts
 - Repair: BEYOND REPAIR
 - Rebuild: \$130,059
- Pickleball Courts
 - 4 Cts: \$135,528
 - 6 Cts: \$184,865

Sport Court Carolina

- Tennis Courts
 - Repair: BEYOND REPAIR
 - Rebuild: \$250,000
- Basketball Courts
 - Repair: BEYOND REPAIR
 - Rebuild: \$250,000
- Pickleball Courts
 - 4 Cts: \$200,167
 - 6 Cts: \$300,250

Whalen Tennis

- Tennis Courts
 - Repair: \$
 - Rebuild: \$
- Basketball Courts
 - Repair: \$
 - Rebuild: \$
- Pickleball Courts
 - 4 Cts: \$
 - 6 Cts: \$

Baseline Sports LLC

- Tennis Courts
 - Repair: BEYOND REPAIR
 - Rebuild: \$250,000
- Basketball Courts
 - Repair: BEYOND REPAIR
 - Rebuild: \$225,000
- Pickleball Courts
 - 4 Cts: \$160,000
 - 6 Cts: \$240,000

Alliance Consulting Engineers

- Tennis Courts
 - Repair: BEYOND REPAIR
 - Rebuild: \$150,000
- Basketball Courts
 - Repair: BEYOND REPAIR
 - Rebuild: \$70,000
- Pickleball Courts
 - 4 Cts: \$160,000
 - 6 Cts: \$240,000
- Restrooms
 - \$125,000
- Parking
 - \$105,000
- Path Paving + Sidewalks
 - \$225,000

Lonesome Mountain Paving

- Parking Lot
 - Existing Lot: \$28,300
 - Existing + New Lot: \$60,000
 - Gravel: \$5,000
- Path Paving
 - \$38,350

CXT Products

Modular Restrooms

- Cortez:
 $\$65,718 + \$14,000$ (shipping & delivery) + $\$20,000$ (site prep; performed by Town) = $\$99,718$
- Denali:
 $\$86,553 + \$14,000$ (shipping & delivery) + $\$20,000$ (site prep; performed by Town) = $\$120,553$



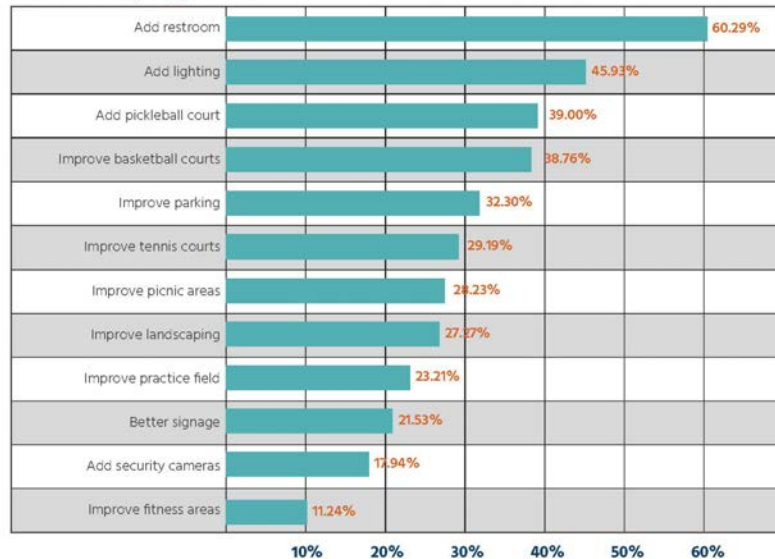
Park Security Lighting

// COMMUNITY ENGAGEMENT

A complete summary report of the survey questions and responses can be found in the Appendix. However, below are examples of some additional responses:

Q10 Check below for improvements that could be made to existing Cragmont Park (105 Swannanoa Avenue).

Answered: 418 | Skipped: 420



When asked about Cragmont Park, participant's top five desired improvements were: 1) add restrooms, 2) Add lighting, 3) Add pickleball courts, 4) Improve basketball courts, and 5) Improve parking. These desired improvements were reflected in community meeting discussions about Cragmont Park.

- Recommendation from the Master Plan
- Adding additional lighting throughout the park
- There are currently only 3 light poles, located only around the current parking area
- Estimated \$60,000

Recommendations

- Implement Site-Specific Park Master Plan
- Develop adjacent property between Swannanoa Avenue and Tomahawk Branch
- Improve accessibility of paths (consider paving for mitigation of future maintenance and improved accessibility)
- Improve grading and drainage of parking area as well as pave lot
- Provide picnic stations or small picnic shelter for shade and gathering
- Resurface all existing courts
- Court fencing is in fair condition but should be assessed for replacement
- Consider including pickleball striping on tennis courts or build two additional courts for pickleball
- Consider building permanent restrooms
- Add modern, low light pollution LED security lighting
- Install entry and wayfinding signage

Next Steps/Direction

- All or most of the elements identified in this project are over the original budget. Direction is needed for the following:
- Pickleball Courts
 - 4 or 6
 - Fundraising
- Parking
 - Paved or gravel
- Path Paving
 - Leave as rock dust or pave
- Include Park Security Lighting
- Completion
 - Project as is with amended funding
 - Phases over fiscal years
 - Selected elements