



TOWN OF BLACK MOUNTAIN

TOWN COUNCIL

MARCH 11, 2024

REGULAR SESSION AGENDA

Time: 6:00 p.m.

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

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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. Proclamation- Transgender Day of Visibility (March 31st)
- B. Proclamation- Women's History Month

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 of Lead and Copper Water Line Replacement Rule**– Jessica Trotman,
Planning Director

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

- January 20, 2024 Council Retreat
- February 8, 2024 Agenda Workshop Meeting
- February 12, 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. Consideration of Budget Amendments** - Tammy Holland, Finance Director

- 1) Carver Flooring
- 2) Waste Reduction and Recycling Carts
- 3) Acceptance of Land of Sky Regional Council Grant for Public Wi-Fi

Motion: To approve the budget amendments as presented.

- D. Amendment to the 2024 Town Council Meeting Calendar to Accommodate FY**

24-25 Budget Work Sessions- Wesley Barker, Town Clerk

Motion: I move to adopt the amendment to the Town Council Meeting Calendar to accommodate FY 24-25 budget work sessions as presented.

- E. Consideration of Approval of 2024 Audit Contract with Gould Killian CPA**

Group, P.A. – Tammy Holland, Finance Director

Motion: To approve the FY 24 Contract to Audit Accounts from Gould Killian, CPA Group, P.A.

- F. Call for Public Hearing for Voluntary Annexation of Property Owned by Givens**

Highland Farms – Jessica Trotman, Planning Director

Motion: To call for a public hearing for voluntary annexation for a parcel known as Buncombe County PIN #0609-56-5118.00000 to be held on Monday, April 8, 2024, at 6:00 p.m., or as soon thereafter as possible, in the Council Chambers of Town Hall, 160 Midland Avenue.

- G. Call for Public Hearing to Rezone 99999 Francis Avenue from R-1 to OI-6** – Jessica

Trotman, Planning Director

Motion: To call for a public hearing to rezone 99999 Francis Avenue (PIN #0609-56-5118.00000) from R-1 (Buncombe County zoning) to OI-6 (office and institutional) to be

held on Monday, April 8, 2024, at 6:00 p.m., or as soon thereafter as possible, in the Council Chambers of Town Hall, 160 Midland Avenue.

H. Consideration of Resolution to Apply for Section 319 NPS Pollution Control Grant for Stream Restoration on Black Mountain Golf Course – Jessica Trotman,

Planning Director

Motion: To approve the resolution to apply through the NC Department of Environmental Quality Section 319 NPS Pollution Control Grant for approximately three hundred and fifty linear feet of stream restoration on the Black Mountain Golf Course.

I. Consideration of Resolution to Apply for the NCDOT IMD Multimodal Planning Grant for a Comprehensive Bicycle and Pedestrian Plan – Jessica Trotman, Planning

Director

Motion: To approve the resolution to apply through the NCDOT IMD Multimodal Planning Grant for a comprehensive bicycle and pedestrian plan.

J. Consideration of Resolution to Apply for the Passive Recreation Lands Grant for Construction of the Ridgecrest Connector Trail Multi-Use Path – Jessica Trotman,

Planning Director

Motion: To approve the resolution to apply through the Buncombe County Open Space Bond Passive Recreation Lands Grant for construction of the Ridgecrest Connector Trail multi-use path.

K. Consideration of Approval of a Resolution Authorizing the Use of the Design/Build Delivery Method for the Cragmont Park Renovation Project –

Angela Reece, Project & Facilities Manager

Motion: I move that Town Council of the Town of Black Mountain authorize the use of the design-build method for the Cragmont Park Renovation Project pursuant to § 143-128.1A.

Motion for all Consent items: 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 -none

9. NEW BUSINESS

- A. Consideration of GROW Trail Free Library Box at Town Square – Josh Henderson,**
Recreation & Parks Director

Motion: To approve the placement of the GROW Trail Free Library Box at Town Square as presented.

- B. Consideration of Pool Pay Rate and Fee Schedule Increases - Josh Henderson,**
Recreation & Parks Director

Motion: To approve increases to the pool pay rate and fee schedule as presented.

- C. Consideration of Summer Camp Staff Pay Rate and Hour Increases - Josh Henderson, Recreation & Parks Director**

Motion: To approve the increase to staff pay rates and hourly rates as presented.

- D. Consideration of 204 Portmanvilla Rd. Lien Release - Josh Harrold, Town Manager**

Motion: To approve release of the lien on this property.

- E. Consideration of Resolution to Enter into a Contract for Construction Services for the Veterans Park Streambank Restoration Project- FEMA Project # 436912 - Angela Reece, Project & Facilities Manager**

Motion: I move that Town Council approve the Resolution to select **HGS, LLC T/A RES Environmental Operation Company, LLC** (Contractor) as lowest responsive, responsible bidder and to enter into an agreement to provide construction repair services for the Veterans Park Streambank Restoration Repair Project as presented.

- F. Consideration of Resolution(s) to Accept Grant Funding from The North Carolina Department of Environmental Quality and to Approve an Agreement for Professional Design-Build Services for the Black Mountain Swannanoa River Floodbench & Constructed Wetlands Project-SRP-SW-ARP-0026– Angela L. Reece, Project & Facilities Manager**

Motion: I move that Town Council approve the Resolution to Accept Funding from The North Carolina Department of Environmental Quality in the amount of \$5,000,000, **and** the Resolution to Approve the Agreement with _____ (selected firm) to Provide Design Build Services For The Black Mountain Swannanoa River Floodbench & Constructed Wetlands Project-SRP-SW-ARP-0026 as presented.

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

International Transgender Day of Visibility

WHEREAS, observed annually on March 31, International Transgender Day of Visibility is a day set aside to celebrate the countless contributions that transgender and non-binary Americans have made, and to affirm their strength, resilience, and perseverance in the face of adversity; and

WHEREAS, transgender Americans are an integral part of our nations workforce and community by serving in the military, are medical professionals, are elected officials, are business owners, are raising their own families, any much more, but continue to face high levels of discrimination, fear, stigma, and bias that can intensify abuse and violence against the transgender community; and

WHEREAS, our community benefits from the diversity of its population and seeks to support inclusions of all people as a testament to our shared values of dignity, equity, and fair treatment for everyone without regard to gender identity or expression; and

WHEREAS, Transgender Day of Visibility helps bring public awareness to hate crimes against transgender Americans and honors the memory of those harmed and killed by senseless acts of violence each year; and

WHEREAS, while progress has been made, there is still much more work to be done to ensure transgender and non-binary citizens are treated equitably and with dignity ; and

WHEREAS, on this day of observance, the Town of Black Mountain commits to moving forward together to promote inclusion, equity, and awareness of transgender and non-binary citizens in our community and every community across our state and nation.

NOW, THEREFORE, I, C. Michael Sobol, Mayor of the Town of Black Mountain, do hereby proclaim March 31, 2024 as: “**Transgender Day of Visibility**” in Black Mountain and commend this observance to all our citizens.

PROCLAIMED this the 11th day of March 2024.

C. Michael Sobol, Mayor

Attest:

Wesley M. Barker, Town Clerk



Proclamation

WOMEN'S HISTORY MONTH

WHEREAS, the 2024 national theme for Women's History Month is, "Women Who Advocate for Equity, Diversity, and Inclusion," recognizing women in every community who have devoted their lives to embracing everyone in the common quest for freedom and opportunity; and

WHEREAS, the history of International Women's Day and Women's History Month emerged from the labor and antiwar movements of the early 20th century, with an emphasis on women's suffrage and workers' rights that later expanded to include equal pay and other fair labor practices, sexual and reproductive rights, and the prevention of gender-based violence; and

WHEREAS, Women's History Month offers a reminder that all attempts to defeat women, erode women's rights, and promote and defend gender-based violence—whether in our homes, our workplaces, or our legislatures—must be resisted;

WHEREAS, Women's History Month offers an opportunity to celebrate the contributions that women of every race, class, ethnic background, sexual orientation, and gender identity have made to the social, cultural, and economic life of the community; and

WHEREAS, women are serving in leadership roles throughout the Town of Black Mountain organization, including several as department heads; and, since the election of Alderman Margaret Slagle in 1971, the citizens of Black Mountain have proudly elected thirteen women to local office, including currently serving Council Members Pam King and Alice Berry.

NOW, THEREFORE, I, C. Michael Sobol, Mayor of the Town of Black Mountain, do hereby proclaim March 2024 to be "**Women's History Month**" in Black Mountain. I encourage all citizens to participate in Women's History Month events and to learn about and celebrate the lives, history, and contributions of women during this month and throughout the year.

PROCLAIMED this the 11th day of March 2024.

C. Michael Sobol, Mayor

Attest:

Wesley M. Barker, Town Clerk



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Jessica Trotman, *Planning Director* **MEETING DATE:** March 11, 2024

AGENDA SECTION: PRESENTATION

DEPARTMENT: Planning

TITLE OF ITEM: Presentation of Lead and Copper Water Line Replacement Rule

SUGGESTED MOTION(S):

None.

SUMMARY:

A presentation of the lead and copper water line replacement rule to provide information on the rule and the plans for outreach to the community.

BUDGET IMPACT:

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

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

ATTACHMENTS:



BLACK MOUNTAIN TOWN COUNCIL MINUTES

January 20, 2024 | Council Retreat | Time: 9:00 A.M.

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

The Black Mountain Town Council held their annual retreat on Saturday, January 20, 2024 at the Christmount Conference Center, 222 Fern Way, Black Mountain, NC 28711.

Mayor C. Michael Sobol called the retreat meeting to order at 9:00 a.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; Jessica Trotman, Planning Director; Wesley Barker, Town Clerk; John Coffey, Fire Chief; Steve Parker, Police Chief; Jamey Matthews, Public Works Director; Tammy Holland, Finance Director; and Josh Henderson, Recreation & Parks Director.

Town Manager Josh Harrold introduced Warren Miller, President of Fountainworks, who will be facilitating the retreat.

The Council first participated in a “Town Treasures” exercise with the purpose for each member to identify three things they love about the Town of Black Mountain which could include specific places, events, or features. Noteworthy responses included: a sense of community, physical beauty, a vibrant downtown, culture, and recreation/green space.

Next, the Council reflected on successes and accomplishments during 2023. Accomplishments included:

- Awarded \$5.4 million in grant funds for stormwater projects.
- Awarded Streamflow Rehabilitation Assistance. Program (StRAP) funds to clear debris from waterways.
- Awarded grant monies for roll-out recycling carts.
- Installed flow meters to measure & identify water leaks.
- Installation of Stormwater Control Measures (SCM) at Lake Tomahawk & Terry Estates parking lots.
- Unified Development Ordinance (UDO) work & almost complete.
- Rehabilitation of existing green spaces.
- Began work on Capital Improvement Plan (CIP).
- Completion of sidewalks at Terry Estates & Charlotte Street.
- Completion & adoption of Creating Outdoor Recreation Economies (CORE) Program for Economic Development.
- Bicycle Boulevard.

The Council then discussed shared values they created in 2023, and reaffirmed these remain the shared values for 2024. These include:

- Respecting one another.
- Ensuring an equitable future for our community.
- Managing our fiscal resources responsibly.
- Acting with integrity & honesty.
- Looking toward our future and being proactive.
- Protecting our environment.
- Ensuring current residents benefit from the Town's growth.
- Being good stewards of our community.
- Engaging our community transparently.
- Supporting the diversity of our people & businesses.

The Council was introduced to Human Centered-Design (HCD) and explored what a "Day in the Life" would look like for a resident, business, and visitor. After completing the activity, the Council debriefed and analyzed gaps between each persona's current experience, versus the ideal Town of Black Mountain experience. The Council answered: 1) What are common themes across each persona? 2) How are they currently interacting with the Town? 3) What amenities do they enjoy? 4) What amenities would they ideally use or have access to? The questions challenged the participants to see how the answers nest within major focus areas (walkable and livable, green and resilient, vibrant economy, civic engagement, connected and accessible) in the Town's Comprehensive Plan.

The Council then came together to identify priorities for 2024, accounting for factors such as the 2021 Comprehensive Plan, 2023 priorities, and upcoming events. Main priorities for 2024 identified by a consensus of the Council included the following:

- Lake Tomahawk restorations.
- Communication strategy.
- Sanitation trucks.
- Review of parking policies & needs.
- Cragmont Park overhaul.

Mayor C. Michael Sobol adjourned the retreat at 2:30 p.m.

C. Michael Sobol, Mayor

ATTEST:

Wesley M. Barker, Town Clerk



BLACK MOUNTAIN TOWN COUNCIL MINUTES

February 8, 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, February 8, 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 5:00 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; Josh Henderson, Recreation & Parks Director; John Coffey, Fire Chief; Jamey Matthews, Public Works Director; Chris Kuhn, Assistant Police Chief.

Town Manager Josh Harrold presented the proposed agenda for the February 12, 2024 Council meeting with the suggestion to add a Closed Session to the agenda to discuss property acquisition as allowed under G.S. 143-318.11(a)(5).

Council Member Alice Berry suggested adding an African American History Month Proclamation to the agenda.

Council Member Doug Hay suggested adding an item under new business as item “9D” entitled “Town Newsletter Discussion.”

Council Member Alice Berry recommended a resolution be created and added to an agenda to highlight the climate goals and efforts by the Town. A brief discussion ensued and there was consensus among the Council that this resolution would be added to the April meeting agenda to coincide with Earth Day.

With no further discussion, Council Member Ryan Stone made a motion to adopt the agenda as presented with the requested additions, and to add a Closed Session as allowed by G.S. 143-318.11(a)(5). The motion was approved by a vote of 5-0.

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

C. Michael Sobol, Mayor

ATTEST:

Wesley M. Barker, Town Clerk



BLACK MOUNTAIN TOWN COUNCIL MINUTES

February 12, 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, February 12, 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; Jamey Matthews, Public Works Director. Attorney Brian Gulden was also present in place of Town Attorney Craig Justus.

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

The Town Council added an agenda item under “Communications from Staff, Councils, Commissions and Agencies” for a presentation on the 2025 county reappraisal.

2. PROCLAMATIONS, AWARDS, RECOGNITIONS

Mayor C. Michael Sobol read a proclamation recognizing February as African American History Month in Black Mountain.

3. CITIZEN COMMENTS

Katherine Achtemeier, 402 W. Connally St., spoke on pickleball in Black Mountain and suggested there be more than the four (4) dedicated pickleball courts proposed.

Bill Boyd, 13 Tree Top Pl., spoke on pickleball courts recommending the Council consider six (6) courts. He also spoke on other Cragmont Park renovations.

Lisa Williams, 108 Enthoffer St., spoke on the advantages of pickleball including social interaction and accessibility to everyone stating pickleball should be elevated to the level of other sports in the Town with the need for dedicated courts.

Cecily Hines, 323 Pinnacle Dr., spoke on pickleball and its social and mental benefits and the need for at least six (6) courts. She stated any age and person can play pickleball which leads to a healthier community.

Larry Pearlman, 203 N. Park Ln., spoke on pickleball being the fastest growing sport in the world and it is not just a sport, but a community. He requests the Council proceed with six (6) pickleball courts.

4. COMMUNICATIONS FROM STAFF, COUNCILS, COMMISSIONS & AGENCIES

- A. Buncombe County Reappraisal 2025.** R. Keith Miller, Property Assessor for Buncombe County, gave a presentation to the Council on the 2025 property reappraisals for all real and personal property in the county. Keith stated Black Mountain has 5,045 parcels of real estate, 387 business accounts, 277 personal property accounts and 7,535 motor vehicles totaling \$1.75 billion in taxable value for FY24. Keith stated Buncombe County attempts to reappraise all real property on a four-year schedule, with the NC General Statute requiring counties to reappraise at least once every eight years. The 2025 reappraisal will be effective January 1, 2025. The reappraisal is completed using mass appraisal methodology. Keith discussed community outreach and the next steps for this upcoming reappraisal. Further, he explained the technology and tools that appraisers use for this work and how property owners can interact using the Buncombe County Property Assessment website (www.tax.buncombecounty.org) and new mobile app entitled "MyValueBC." Keith reviewed the schedule for the 2025 reappraisals. In closing, he stated the property assessment estimates the property value only, and the governing boards, and taxing districts, determine the tax rate for the jurisdiction during the annual budget process.

5. CONSENT AGENDA

- A. Adoption of Meeting Minutes:** 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.

Council Member Pam King made a motion to approve all minutes as presented with the one-word change to the December 14, 2023 special called meeting minutes as discussed. A vote of 5-0 in favor.

- 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. Amendment to Contract for Audit Accounts.

This item is to extend the contract to audit accounts for FY ending June 30, 2023 with Gould Killian CPA Group, PA, to conclude the audit as of January 31, 2024. The amended audit contract will be sent to the Local Government Commission (LGC) by the auditors.

Council Member Pam King made a motion to approve the amendment to the contract for audit accounts. A vote of 5-0 in favor.

D. Consideration of Mountain Heritage Trout Waters MOU.

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. Currently, 17 cities participate in the program where cities provide public access to a trout stream that runs through or is adjacent to the city. The fisheries committee will approve this MOU at their July meeting, and once approved, Black Mountain will be included on maps and have additional opportunities to promote urban trout fishing timing in our economic development, recreational programming, environmental engagement and education efforts.

Council Member Pam King made a motion to approve the following MOU. A vote of 5-0 in favor.

**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.

6. PUBLIC HEARING- *none.*

7) CITIZEN COMMENTS

Marian Kaminitz, Treasurer for Friends of the Community Gardens, gave a short presentation to Council about the Dr. John Wilson Community Garden Strategic Plan highlighting some priorities and needed repairs.

8) UNFINISHED BUSINESS

A. Lake Tomahawk Playground Upgrades.

Recreation & Parks Director Josh Henderson stated at the December 11, 2023 meeting, Council members were in consensus to pursue playground equipment which featured a freestanding swing set, three (3) STEM play elements and nature play stumps. Further, this included installation, shipping, repainting of current structure, pour-in-place (PIP) surfacing, site preparation for the PIP surfacing and tax. This would be located to the right of the current playground structure at Lake Tomahawk. Initially, the design and cost estimates totaled \$144,802.99. In 2023, \$100,000 was budgeted from ARPA funds for playground upgrades. However, Josh explained that equipment pricing increased for 2024, and the new total cost estimate was \$147,279.83. Discussion ensued about the PIP surfacing compared to other materials, stating PIP surfacing would allow for more accessibility. Further, it was confirmed that the playground equipment currently in place will remain, including the sandbox.

Council Member Doug Hay made a motion to approve the project design and updated cost estimates as presented, which includes the Pour in Place (PIP) surfacing. A vote of 5-0 in favor.

9) NEW BUSINESS

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

Planning Director Jessica Trotman stated the Town successfully received StRAP funding in 2022 and 2023 for stream debris removal along the Swannanoa River and would like to apply for additional funding in 2024 for streambank restoration along Flat Creek River. This grant has no required matching funds and is provided by the N.C. Department of Agriculture. Jessica stated the Engineer is currently working to develop the scope of the project.

Council Member Alice Berry made a motion to approve the following resolution. A vote of 5-0 in favor.

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

Resolution #R-24-06

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.

READ, APPROVED AND ADOPTED, by a vote of **5 to 0** on this 12th day of February 2024.

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

Lucille Nelson, Garden Manager, gave a presentation to the Council on the proposed 10-Year Strategic Plan for the Dr. John Wilson Community Garden. Lucille went over the current programs at the garden, what the garden offers and 2023 accomplishments. She then explained 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 garden. The plan outlines the history, mission, vision, achievements, operational goals, capital goals, programmatic goals, and recommendations from the comprehensive recreation master plan. Lucille briefly covered each subject in her presentation.

Vice Mayor Archie Pertiller made a motion to adopt the Dr. John Wilson Community Garden Strategic Plan as presented. A vote of 5-0 in favor.

****A copy of this approved Strategic Plan is included at the end of these minutes.****

C. Cragmont Park Renovations.

Recreation & Parks Director Josh Henderson gave an overview of this item stating in FY 24, \$492,000 was budgeted to fund renovations at Cragmont Park. These renovations included: restrooms, parking lot paving, path paving, basketball court repairs, tennis court repairs, and pickleball courts. After gathering estimates from various contractors, the estimates exceeded the budgeted amounts for these renovation elements. The Council was asked to provide directions on the next steps for the renovations at Cragmont Park. Discussion then ensued among Council Members and staff. Following the discussion, Council Members were in consensus to proceed with the following: tennis court repairs, basketball court repairs, restrooms, path paving, park safety lighting (as recommended from the master plan), gravel parking lot (not paved), and six (6) pickleball courts with assistance from the pickleball organization to help raise funds for the additional two courts. After further discussion about pickleball courts, Council Member Ryan Stone suggested working with the Town Attorney and creating an official MOU between the Town and the pickleball organization authorizing fundraising efforts for an extra two (2) pickleball courts, which was above the originally budgeted four (4) courts. Another short discussion ensued about court lighting needs and enhancements.

D. Town Newsletter Discussion.

Town Manager Josh Harrold updated the Town Council on a recent inquiry about including the newly re-launched Town newsletter in the monthly water bills, stating it would be a significant cost annually. Currently, the Town newsletter is posted on the website, on social media, sent out via the Town's NotifyMe subscribers, and printed copies are available. Further, staff will include a QR code and website link on the water bills directing customers to the newsletter.

10) COMMUNICATION

A. Attorney Brian Gulden stated Attorney Craig Justus had recently met with department heads concerning 160D updates. Further, Brian spoke on property notice of violation updates on several town properties, stating the Attorney's office is working with Town staff on these.

B. Town Manager Josh Harrold had no updates.

11) COMMUNICATION FROM MAYOR AND TOWN COUNCIL

Council Member Pam King commented on the upcoming Primary Election on March 5, 2024 and thanked the Active Mobility Commission for the Valentine 5K work.

12) CLOSED SESSION- *G.S. § 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.*

Council Member Ryan Stone made a motion to go into closed session as allowed by G.S. § 143-318 (a)(5). A vote of 5-0 in favor. The time was 8:11 p.m.

The Town Council returned from Closed Session went back into Open Session at 8:44 p.m.

13) ADJOURNMENT- *With no further business to be discussed, Mayor C. Michael Sobol adjourned the meeting at 8:44 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:** March 11, 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, March 11, 2024
SUBJECT: January 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	\$ 5,207,493.16
Collected	\$ 4,978,187.90
Adjustments and Releases	\$ (12,161.18)
Outstanding real and personal property taxes	\$ 217,144.08

TAX COLLECTION PERCENTAGE FOR CURRENT TAX YEAR

95.82%

PRIOR YEAR TAXE(S) COLLECTED WITHIN THE MONTH

Collected	\$ 158.71
Adjustments and Releases	\$ -

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

Ad Valorem	\$ 991.72
Motor Vehicle	\$ 83.59



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Tammy Holland, *Finance Director* **MEETING DATE:** March 11, 2024

AGENDA SECTION: Consent **DEPARTMENT:** Finance

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

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

SUMMARY:

The Town of Black Mountain Council adopts the following FY23-24 Budget Ordinance Amendments for the purpose of appropriating additional funding required for expenditures. Budget amendments BA129-BA130 for the following

- **BA129 Carver Floor** **\$10,700**
 - o *Funds Transferred from Contingency*
- **BA130 Land of Sky Grant- Public WIFI** **\$40,000**
- **BA131 Waste Reduction and Recycling Grant** **\$242,680**
 - o *Town Match Transfer Appropriated Fund Balance \$126,680*

ATTACHMENTS:

- i. Budget Amendments Detailed Report
- ii. Carver Floor quote
- iii. Land of Sky Grant
- iv. Waste Reduction and Recycling Grant and Totes Invoice

Adjustment Number	Summary	Account Number	Account Name	Description	Sum of Amount
BA0000129	Staff had to outsource repairs that were previously going to be completed by Town staff.	100-4020-55110	Contingency	Budget Amendment - Carver Flooring	-\$10,700.00
		100-4615-52310	R & M - Building	Budget Amendment - Carver Flooring	\$10,700.00
BA0000130	Budget for Land of Sky Grant to Establish Public WIFI	260-8803-43400	Grant Revenues- Nongovernmental	Grant - Land of Sky- WIFI	-\$40,000.00
		260-8803-52019	Information Technology Services	Grant - Land of Sky- WIFI	\$40,000.00
BA0000131	Recognize Budget for State Community Waste Reduction and Recycling Grant	100-7000-48590	Transfers In	Waste Reduction and Recycling Grant Town Match	-\$126,680.00
		100-7000-59510	Transfer Out	Waste Reduction and Recycling Grant Town Match	\$126,680.00
		260-8804-43200	Grant Revenue - State	NC-Community Waste Reduction and Recycling Grant	-\$116,000.00
		260-8804-48590	Transfers In	Town Match and Remaining Funds for Project	-\$126,680.00
		260-8804-52420	Speciality Operating Supplies	Recycling Totes	\$242,680.00



Black Mountain Handyman, LLC

509 Tomahawk Ave
Black Mountain, NC 28711

(828) 767-0064
joshua.henderson@tobm.org

ESTIMATE	#2197
SERVICE DATE	Jan 23, 2024
TOTAL	\$13,502.28

SERVICE ADDRESS
101 Carver Ave
Black Mountain, NC 28711

CONTACT US
PO Box 1616
Black Mountain, NC 28711

(828) 712-1123
support@blackmountainhandyman.com

ESTIMATE

Services	qty	unit price	amount
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Labor	1.0	\$6,850.00	\$6,850.00
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Estimate:

Tear out flooring in classroom from flood and reinstall new LVT flooring.

1. SITE PREP
- Set up dust management with Zip-wall System on entry door and French door, and plastic on all windows.
 - Cover flooring in hallways and adjacent areas with ram board Koruser or similar.
 - Set up air scrubber system.
- ESTIMATED COST: \$400

2. DEMO EXISTING FLOORING
- Detach 660 sq. ft. of existing vinyl flooring and underlayment from mounting surface(s). Break into haul able pieces.
 - Detach vinyl baseboard trim from at least 2 of the 4 walls. Assess for reinstallation and save or dispose as necessary.
- ESTIMATED COST: \$950

3. INSTALL NEW LVT FLOORING
- Basic labor to install 660 sq. ft. LVT flooring with favorable site conditions. Measure and layout seam locations. Install underlayment. Cut, fit and secure laminate flooring.
- ESTIMATED COST: \$4250

4. TRIM WORK

- Basic labor to reinstall existing vinyl baseboard trim if possible or replace with new vinyl baseboard trim.

ESTIMATED COST: 190

5. DISPOSAL FEE

- Remove all old materials from site.

- Dispose of responsibly.

ESTIMATED COST: \$300

6. POST JOB CLEAN-UP

- Basic labor to thoroughly vacuum and wipe all surfaces to remove any dust and have classroom move-in ready.

ESTIMATED COST: \$760

ESTIMATED COST: \$6850.00

Uncategorized - Contingency Fee	1.0	\$0.00	\$0.00
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MOLD REMEDIATION

This is to remediate mold if found during the demo process. There is a realistic possibility of there being some mold or mildew under the flooring.

ESTIMATED COST: \$5007

NOTE 1: This fee is for money allotted to set aside and cover unanticipated and/or unexpected circumstances or conditions that may arise during the project that differ from those outlined in the plans and specifications on which this estimate is based.

NOTE 2: This cost is not included in the estimate total and would be a change order if need be if mold is found.

Uncategorized - Contingency Fee	1.0	\$0.00	\$0.00
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ASBESTOS ABATEMENT

Set up dust containment system

Set up dust scrubbers

Remove asbestos flooring

Remove glue residue

Clean interior surfaces

ESTIMATED COST- \$9900

NOTE 1: We do not believe this to be likely, but if the asbestos flooring has been compromised due to extended water exposure.

NOTE 2: This fee is for money allotted to set aside and cover unanticipated and/or unexpected circumstances or conditions that may arise during the project that differ from those outlined in the plans and specifications on which this estimate is based.

NOTE 3: This cost is not included in the estimate total and would be a change order if need be.

Uncategorized - Cost Plus	1.0	\$1,645.95	\$1,645.95
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This fee covers estimation costs, insurance (\$1,000,000 general liability), worker's compensation insurance, accident insurance, work site set up/clean up, and tool maintenance & repair. This is 15% of subtotal.

Services subtotal: \$8,495.95

Materials	qty	unit price	amount
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Uncategorized - Materials	1.0	\$4,123.00	\$4,123.00
1. SITE PREP			
- Zip-wall System on entry door and French door.			
- Plastic sheeting.			
- HEPA filter for air scrubber			
ESTIMATED COST: \$150			
2. DEMO EXISTING FLOORING			
- PPE.			
- Contractor trash bags.			
ESTIMATED COST: \$50			
3. INSTALL NEW LVT FLOORING			
- Basic labor to install 660 sq. ft. LVT flooring with favorable site conditions. Measure and layout seam locations. Install underlayment. Cut, fit and secure laminate flooring.			
ESTIMATED COST: \$3740			
4. TRIM WORK			
- New vinyl baseboard trim.			
- Adhesive.			
ESTIMATED COST: \$143			
5. DISPOSAL FEE			
ESTIMATED COST: \$0			
6. POST JOB CLEAN-UP			
- Vacuum bags			
- Approved cleaning spray			
- dust rags			
- Garbage bags			
ESTIMATED COST: \$40			
ESTIMATED COST: \$4123			

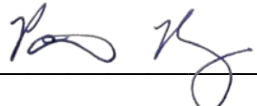
Materials subtotal: \$4,123.00

Subtotal	\$12,618.95
Tax (North Carolina Department of Revenue 7%)	\$883.33
Total	\$13,502.28

Thank you for the opportunity to serve you! If you are satisfied with our work, let us know by leaving us a review.

~Mark Mullert

Land of Sky Regional Council Award Notice

Type of Award: ☒ Sub-Award ☐ Purchase of Goods & Service	Contract No: ☒ New ☐ Modification
Town of Black Mountain	Land of Sky Regional Council
Town of Black Mountain 160 Midland Ave Black Mountain, NC 28711	Land of Sky Regional Council 339 New Leicester Hwy, Suite 140 Asheville, NC 28806
1. TIN/EIN:	Source of Funding: Prime Sponsor: DHT Expanding Digital Opportunities in WNC Federal Aid Number: CFDA: Federal Provisions Applicable: _____
2. DUNS:	
Proposal/Project Title: Black Mountain Downtown Public WIFI	
Congressional Districts: Awardee: NC 11 Awardee Performance Area: NC 11	4. Funding Information/Period of Performance:
	a. Amount Funded this Action: \$40,000
	b. Amount Cost Share: N/a
	c. Total Funds: \$40,000
	d. Start Date: March 8, 2024
	e. End Date: March 1, 2025
<i>This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.</i>	
Signature:  Finance Officer: Patricia Rosenberg	Date: 03/01/24

Awardee	Land of Sky Regional Council
Principal Contact: Name: Josh Harrold Phone: 828-419-9300, ext. 311 Email: josh.harrold@tobm.org	LOSRC Department Director: Name: Erica Anderson Phone: 828.251.7442 Email: erica@landofsky.org
Fiscal Officer: Name: Tammy Holland Phone: 828-419-9300, ext. 301 Email: tammy.holland@tobm.org	LOSRC Financial Officer: Name: Patricia Rosenberg Phone: 828.251.6622 Email: patricia@landofsky.org
Send Payment to: Black Mountain 160 Midland Ave Black Mountain, NC 28711	Send Invoices to: Accounts Payable Land of Sky Regional Council 339 New Leicester Hwy, Suite 140 Asheville, NC 28806
The undersigned hereby certifies further that: ▪ He or she is a duly authorized representative of the Entity named herein; ▪ He or she is authorized to make, and does hereby make, the foregoing certifications on behalf of the Entity; and ▪ He or she understands that any person who knowingly submits a false certification in response to the requirements of G.S. 143-59.1and -59.2 shall be guilty of a Class I felony	
Awardee Signature: _____ Name: Title: Regional Director Date: _____	Land of Sky Regional Council Signature: _____ Name: Nathan Ramsey Title: Executive Director Date: _____



Contract No. _____

AGREEMENT BETWEEN
LAND OF SKY REGIONAL COUNCIL
and
Town of Black Mountain
for the provision of
expanding Public WIFI

This AGREEMENT, entered on the _____ 2024, by and between the Land of Sky Regional Council of Governments (hereinafter referred to as the "Council") and the Town of Black Mountain, North Carolina (hereinafter referred to as the "Local Government"); WITNESSETH THAT:

WHEREAS, the Council is empowered to grant \$40,000 of funding from DHT Expanding Digital Opportunities in WNC Implementation for Public WIFI access expansion;

WHEREAS, the Local Government has requested said help with expanding public WIFI access within Black Mountain Downtown Area; and other public areas such as parks, libraries, etc

WHEREAS the Council and Commission desire to cooperate with each other in every way possible to the end that the proposed activities are carried out in an efficient manner;

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

1. Purpose

This grant of funds will be used to establish Public WIFI through an RPF process and may be used to maintain that network through the purchase of WIFI equipment, service fees, and other related expenses. The Public WIFI Will be used by the local population, helping to connect citizens within the Downtown area. The public WIFI will create multiple points of WIFI distribution, aiming to use town-owned buildings or partner locations to leverage a public project. The goal is to help close the digital divide in the region.

2. Time of Performance

The Council Shall require that the establishment of service shall be no later than March 1, 2025, and all required reports and documents submitted during the contract period stated above. Town of Black Mountain is required to keep service for the project term, and desired to keep as a public project in the future.

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

No member, officer, or employee of the Council or its agents; no member of the governing body of the locality in which the program is situated; and no other public official of such locality or

localities who exercises any functions or responsibilities with respect to the program during his or her tenure or for one year thereafter, shall have any financial interests, either direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under this Agreement. Immediate family members of said members, officers, employees, and officials are similarly barred from having any financial interests in the program. The Council shall incorporate, or cause to be incorporated, in all such contracts or subcontracts, a provision prohibiting such interest pursuant to the purpose of this section.

4. Nondiscrimination Clause

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

5. Age Discrimination Act of 1975, as amended

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

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

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

7. E-Verify Provision

Pursuant to G.S. 143-48.5 and G.S. 147-33.95(g), the undersigned hereby certifies that the Contractor named below, and the Contractor's subcontractors, complies with the requirements of Article 2 of Chapter 64 of the NC General Statutes, including the requirement for each employer with more than 25 employees in North Carolina to verify the work authorization of its employees through the federal E-Verify system. E-Verify System Link: www.uscis.gov

Town of Black Mountain

Land of Sky Regional Council

By: _____

By: _____

Title: _____

Title: _____ Executive Director

Date: _____

Date: _____

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

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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

**North Carolina Department of Environmental Quality
Financial Assistance Agreement**

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

1. **Audit and Other Reporting Requirements of the Local Government Commission.** If subject to the audit and other reporting requirements of the Local Government Commission pursuant to Article 3 of Chapter 159 of the North Carolina General Statutes (Local Government Budget and Fiscal Control Act), the Grantee understands and agrees that the terms, conditions, restrictions and requirements hereinafter set forth shall only apply to the extent not inconsistent with, or superseded by, the audit and other reporting requirements of the Local Government Commission.
2. **Contract Documents.** The agreement between the parties consists of this document (the "Contract Cover") and its attachments, which are identified by name as follows:
 - a. State's General Terms and Conditions (Attachment A)
 - b. Department's Request for Proposals ("RFP") (Attachment B)
 - c. Grantee's Response to RFP, including scope of work, line item budget, budget narrative and, *if applicable*, indirect cost documentation (hereinafter referred to generally as the "Award Proposal") (Attachment C)
 - d. Grantee's Award Letter (Attachment D)
 - e. Notice of Certain Reporting and Audit Requirements (Attachment E)
 - f. Grantee's Conflict of Interest Policy (Attachment F)
 - g. Grantee's Certification of No Overdue Tax Debts (Attachment G)

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

3. **Precedence Among Contract Documents.** In the event of a conflict or inconsistency between or among the Contract Documents, the document with the highest relative precedence shall prevail. This Contract Cover shall have the highest precedence. The order of precedence thereafter shall be determined by the order of documents listed in § 2 above, with the first-listed document having the second-highest precedence and the last-listed document having the lowest precedence. If there are multiple contract amendments, the most recent amendment has the highest precedence and the oldest amendment has the lowest precedence.
4. **Contract Period.** This Agreement shall be effective from July 1, 2023 to June 30, 2024, inclusive of those dates.
5. **Grantee's Duties.** As a condition of the grant award, the Grantee agrees to:
 - a. Undertake and deliver the grant award project, plan or services as described in the Award Proposal (Attachment C), adhering to all budgetary provisions set out therein throughout the course of performance.

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

GRANT CONTRACT NO. CW39015

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

- b. Ensure that all award funds are expended in a manner consistent with the purposes for which they were awarded, as described more fully in the attached Contract Documents.
 - c. Comply with the requirements of 09 NCAC 03M .0101, *et seq.* (Uniform Administration of State Awards of Financial Assistance), including, but not limited to, those provisions relating to audit oversight, access to records, and availability of audit work papers in the possession of any auditor of any recipient of State funding.
 - d. Comply with the applicable provisions of Attachment E, Notice of Certain Reporting and Audit Requirements.
 - e. Maintain all records related to this Agreement (i) for a period of six (6) years following the date on which this Agreement expires or terminates, or (ii) until all audit exceptions have been resolved, whichever is longer.
 - f. Comply with all laws, ordinances, codes, rules, regulations, and licensing requirements applicable to its performance hereunder and/or the conduct of its business generally, including those of Federal, State, and local agencies having jurisdiction and/or authority.
 - g. Obtain written approval from the Department's Contract Administrator (see § 14 below) prior to making any subaward or subgrant not already described in the Award Proposal.
 - h. Ensure that the terms, conditions, restrictions and requirements of this Contract Cover, including those incorporated by reference to other Contract Documents and/or applicable law, are made applicable to, and binding upon, any subgrantee who receives as a subaward or subgrant any portion of the award funds made available to the Grantee hereunder.
 - i. Take reasonable measures to ensure that any subgrantee (i) complies with the terms, conditions, restrictions and requirements set forth in this Contract Cover, including those incorporated by reference to other Contract Documents and/or applicable law, and (ii) provides such information in its possession as may be necessary for the Grantee to comply with such terms, conditions, restrictions and requirements.
6. **Historically Underutilized Businesses.** Historically Underutilized Businesses (HUBs) consist of minority, women and disabled business firms that are at least fifty-one percent owned and operated by an individual(s) of the categories. Also included in this category are disabled business enterprises and non-profit work centers for the blind and severely disabled.

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

7. **Department's Duties.** The Department shall pay the Grantee in the manner and amounts specified below and in accordance with the approved budget set forth in the Award Proposal.
8. **Total Award Amount.** The total amount of award funds paid by the Department to the Grantee under this Agreement shall not exceed ONE HUNDRED SIXTEEN THOUSAND DOLLARS (\$116,000.00) (the "Total Award Amount"). This amount consists of:

Funding:

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

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

Account Coding Information:

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

Grantee Matching Information:

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

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

- ☒ c. The Grantee's matching requirement is \$8,000.00, which shall consist of:

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

- ☒ d. The Grantee is committing to an additional \$225,163.00 to complete the project or services described in the Award Proposal.

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

9. Invoice and Payment. The award funds shall be disbursed to the Grantee in accordance with the following provisions:
- The Grantee shall submit invoices to the Department's Contract Administrator at least quarterly. The final invoice must be received by the Department within forty-five (45) days following the date on which termination or expiration of this Agreement becomes effective. Amended or corrected invoices must be received by the Department's Financial Services Division within six (6) months of such date. Any invoice received thereafter shall be returned without action.
 - The Department shall reimburse the Grantee for actual allowable expenditures, with the Department retaining a minimum of ten percent (10%) of the Total Award Amount until all grant-related activities are completed and all reports/deliverables are received and accepted by the Department. As used herein, "allowable expenditures" are expenditures associated with work conducted to meet performance obligations under this Agreement, provided such work is carried out in a manner consistent with the Award Proposal. The Department may withhold payment on invoices when performance goals and expectations have not been met or when the manner of performance is inconsistent with Attachment C.
10. Grantee's Fiscal Year. The Grantee represents that its fiscal year is from July 1 to June 30.
11. Availability of Funds. The Grantee understands and agrees that payment of the sums specified herein shall be subject to, and contingent upon, the allocation and appropriation of funds to the Department for the purposes described in this Agreement.

GRANT CONTRACT NO. CW39015

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

12. Reversion of Unexpended Funds. The Grantee understands and agrees that any unexpended grant funds shall revert to the Department upon termination of this Agreement.
13. Supplantation of Expenditure of Public Funds. The Grantee understands and agrees that funds received pursuant to this Agreement shall be used only to supplement, not to supplant, the total amount of Federal, State and local public funding that the Grantee would otherwise expend to carry out the project or services described in the Award Proposal.
14. Contract Administrators. Each party shall submit notices, questions and correspondence related to this Agreement to the other party's Contract Administrator. The contact information for each party's Contract Administrator is set out below. Either party may change its Contract Administrator and/or the associated contact information by giving timely written notice to the other party.

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

15. Assignment. The Grantee may not assign its obligations or its rights to receive payment hereunder.
16. Procurement. The Grantee understands and agrees that all procurement activities undertaken in connection with this Agreement shall be subject to the following provisions:
- None of the work or services to be performed under this Agreement involving the specialized skill or expertise of the Grantee shall be contracted without prior written approval from the Department.
 - In the event the Grantee or any subrecipient of the Grantee contracts for any of the work to be performed hereunder, the Grantee shall not be relieved of any duties or responsibilities herein set forth.
 - The Grantee shall not contract with any vendor who is restricted from contracting with the State of North Carolina pursuant to N.C.G.S. §§ 143-133.3, 143-59.1, 143-59.2 or 147.86.60.
17. Subawards. The Grantee understands and agrees that any subaward or subgrant of any portion of the financial assistance provided hereunder shall not relieve the Grantee of any duties or responsibilities herein set forth.
18. Title VI and Other Nondiscrimination Requirements. Throughout the course of its performance hereunder, the Grantee shall comply with all applicable State and Federal laws, regulations, executive orders and policies relating to nondiscrimination, including, but not limited to:

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

Civil Rights Restoration Act of 1987, as amended;

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

Age Discrimination Act of 1975, as amended;

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

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

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

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

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

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

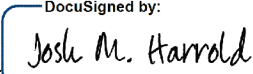
The Grantee understands and acknowledges that, in addition to itself, any lower-tier recipient of the financial assistance provided hereunder must also comply with the requirements of this section. Accordingly, the Grantee agrees to include a similar provision in any financial assistance agreement made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

19. E-Verify. To the extent applicable, the Grantee represents that it and each of its subgrantees, contractors and/or subcontractors performing work pursuant to, or in association with, this Agreement are in compliance with Article 2 of Chapter 64 of the North Carolina General Statutes, including, in particular, the requirement that certain employers verify the work authorization of newly hired employees using the Federal E-Verify system.
20. Termination by Mutual Consent. This Agreement may be terminated by mutual consent of the parties, provided the consent is documented in writing and duly executed by an authorized representative of each party.
21. Survival. Any provision contained in this or any other Contract Document that contemplates performance or observance subsequent to the termination or expiration of this Agreement shall survive the termination or expiration hereof and continue in full force and effect.
22. Signature Warranty. The undersigned represent and warrant that they are authorized to bind their principals to the terms and conditions of this Contract Cover and the Agreement generally, including those incorporated by reference to applicable law.

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

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

TOWN OF BLACK MOUNTAIN

By  _____
4804069F53EA4E0...
Grantor's Signature

Josh M. Harrold Town Manager

Printed Name and Title

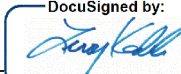
Town of Black Mountain

Organization

9/13/2023

Date

NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL QUALITY

By  _____
305413556553441...
Signature of Department Head or Authorized Agent

Tommy Kirby, Purchasing Director

Printed Name and Title

Financial Services Division, Purchasing and Contracts Section

Division/Section

9/18/2023

Date

ORIGINAL

**General Terms and Conditions
Governmental Entities****DEFINITIONS**

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

- (1) "Agency" (as used in the context of the definitions below) means and includes every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority or other unit of government of the State or of any county, unit, special district or other political sub-agency of government. For other purposes in this Contract, "Agency" means the entity identified as one of the parties hereto.
- (2) "Audit" means an examination of records or financial accounts to verify their accuracy.
- (3) "Certification of Compliance" means a report provided by the Agency to the Office of the State Auditor that states that the Grantee has met the reporting requirements established by this Subchapter and included a statement of certification by the Agency and copies of the submitted grantee reporting package.
- (4) "Compliance Supplement" refers to the North Carolina State Compliance Supplement, maintained by the State and Local Government Finance Agency within the North Carolina Department of State Treasurer that has been developed in cooperation with agencies to assist the local auditor in identifying program compliance requirements and audit procedures for testing those requirements.
- (5) "Contract" means a legal instrument that is used to reflect a relationship between the agency, grantee, and sub-grantee.
- (6) "Fiscal Year" means the annual operating year of the non-State entity.
- (7) "Financial Assistance" means assistance that non-State entities receive or administer in the form of grants, loans, loan guarantees, property (including donated surplus property), cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations, and other assistance. Financial assistance does not include amounts received as reimbursement for services rendered to individuals for Medicare and Medicaid patient services.
- (8) "Financial Statement" means a report providing financial statistics relative to a given part of an organization's operations or status.
- (9) "Grant" means financial assistance provided by an agency, grantee, or sub-grantee to carry out activities whereby the grantor anticipates no programmatic involvement with the grantee or sub-grantee during the performance of the grant.
- (10) "Grantee" has the meaning in NCGS 143C-6-23(a)(2): a non-State entity that receives a grant of State funds

from a State agency, department, or institution but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission. For other purposes in this Contract, "Grantee" shall mean the entity identified as one of the parties hereto. For purposes of this contract, Grantee also includes other State agencies such as universities.

- (11) "Grantor" means an entity that provides resources, generally financial, to another entity in order to achieve a specified goal or objective.
- (12) "Non-State Entity" has the meaning in NCGS 143C-1-1(d)(18): A firm, corporation, partnership, association, county, unit of local government, public authority, or any other person, organization, group, or governmental entity that is not a State agency, department, or institution.
- (13) "Public Authority" has the meaning in NCGS 159-7(10): A municipal corporation that is not a unit of local government or a local governmental authority, board, commission, council, or agency that (i) is not a municipal corporation, (ii) is not subject of the State Budget Act, and (iii) operates on an area, regional, or multiunit basis, and the budgeting and accounting systems of which are not fully a part of the budgeting and accounting systems of a unit of local government.
- (14) "Single Audit" means an audit that includes an examination of an organization's financial statements, internal controls, and compliance with the requirements of Federal or State awards.
- (15) "Special Appropriation" means a legislative act authorizing the expenditure of a designated amount of public funds for a specific purpose.
- (16) "State Funds" means any funds appropriated by the North Carolina General Assembly or collected by the State of North Carolina. State funds include federal financial assistance received by the State and transferred or disbursed to non-State entities. Both Federal and State funds maintain their identity as they are sub-granted to other organizations. Pursuant to NCGS 143C-6-23(a)(1), the terms "State grant funds" and "State grants" do not include any payment made by the Medicaid program, the Teachers' and State Employees' Comprehensive Major Medical Plan, or other similar medical programs.
- (17) "Sub-grantee" has the meaning in NCGS 143C-6-23(a)(4): a non-State entity that receives a grant of State funds from a grantee or from another sub-grantee but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission.

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

Relationships of the Parties

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

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

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

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

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

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

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

third person receiving services or benefits under this Contract is an incidental beneficiary only.

Indemnity

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

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

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

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

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

Default and Termination

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

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

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

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

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

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

Intellectual Property Rights

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

Compliance with Applicable Laws

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

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

Confidentiality

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

Oversight

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

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

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

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

Miscellaneous

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

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

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

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

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

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

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

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

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

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

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

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

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

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

By Executive Order 24, issued by Governor Perdue, and

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

- (1) have a contract with a governmental agency; or
- (2) have performed under such a contract within the past year; or
- (3) anticipate bidding on such a contract in the future.

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

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

2023 Community Waste Reduction and Recycling Grant Program

REQUEST FOR PROPOSALS

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

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

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

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

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

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

Cash Match: 20% of grant award

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

What Types of Projects are Eligible?

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

Priority Project Grants – *Eligible for up to \$40,000 in grant funding*

Priority Project Grants support investments in public recycling program areas that have been determined by DEACS to be of particular importance to growing and expanding efficient and effective waste reduction and recycling services throughout North Carolina.

2023 CWRAR Priority Projects include:

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

Standard Project Grants – Eligible for up to \$30,000 of grant funding

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

Food Waste Projects

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

Eligible and Ineligible Expenses

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

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

How Grant Funds Work

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

Available Funding

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

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

Cash Match

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

To calculate the necessary cash match for any grant project, determine the total budget associated with the project and then use the following equation: $\text{total project budget} \div 6 = \text{required cash match}$.

Contract Period:

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

Who is Eligible?

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

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

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

Conditions on Submittals

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

How to Submit Proposals:

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

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

Proposal Due Date:

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

Word of Advice for Grant Writing:

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

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

Required Proposal Format:

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

- Project Title
- Applicant Contact Information: to include:
 - ✓ Name and title of main contact
 - ✓ Organization
 - ✓ Address
 - ✓ Phone number
 - ✓ Email address
- Date of Proposal Submittal
- General Requirements: see General Requirements section below for more information
 - ✓ Written statement certifying that Solid Waste Disposal Tax Proceeds are used only for solid waste management purposes and a description of how proceeds are used.
 - ✓ Written statement indicating that the applicant has recycling services for cans, bottles and paper available at the key government buildings and a list of the materials collected.
 - ✓ Written statement indicating that the applicant has established a program for the collection and recycling of fluorescent lights and mercury containing thermostats from public buildings owned by the applicant.
- Project Description: Provide responses to each of the following prompts below. Applicants are encouraged to provide a clear project description and consider the Award Criteria as they describe the project elements.
 1. Describe the proposed project and identify specifically what items (and how many) you intend to purchase with grant funds. If the project will implement a new recycling program or improve an existing recycling program, provide a list of the recyclable materials that will be accepted and indicate where will they be taken for processing or marketing.
(Planning: 0-20 points; Priority Project: 0-10 points)
 2. What is the anticipated service life for the items or materials to be purchased with grant funds? Estimate how long the project will continue to serve the community and how you will financially and operationally sustain the project after the grant ends.
(Planning: 0-20 points; Efficiency/Cost Effectiveness: 0-20 points)
 3. How does the proposed project address a specific recycling need for the community? Will the grant project create a new service, enhance or expand an existing service, or support an existing recycling service without expanding that service?
(Demonstration of Need: 0-20 points)
 4. How many households or businesses will be impacted by or have access to the recycling services associated with the proposed project?
(Demonstration of Need: 0-20 points; Efficiency/Cost Effectiveness: 0-20 points)
 5. Estimate the number of tons of waste expected to be reduced annually as a result of the proposed project. Explain how you came up with the estimate.
(Waste Reduction Impact: 0-25 points)
 6. Describe any partnerships associated with the proposed project. Please include documentation of support from any partner entities.
(Joint Effort: 0-5 points)

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

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

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

General Requirements – *for all applicants*

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

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

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

Special Requirements for Public School Recycling Projects

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

Special Requirements for Electronics Recycling Projects

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

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

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

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

Special Requirements for Away-From-Home Recycling Projects:

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

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

How are Proposals Evaluated?

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

Award Criteria:

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

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

If a Proposal is Selected for Funding

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

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

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

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

Other General Terms and Conditions:

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

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



TOWN OF BLACK MOUNTAIN

160 Midland Avenue
Black Mountain, NC
Telephone: (828) 419-9300

Tausha Millwood: Senior Administrative Assistant

Jamey Matthews: Public Works Director

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

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

February 16, 2023

General Requirements

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

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

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

Project Description

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

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

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

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

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

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

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

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

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

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

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

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

Additional Requirements

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

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

Project Timeline

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

Project Budget

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

ROY COOPER

Governor

ELIZABETH S. BISER

Secretary

JAMIE RAGAN

Director



March 14, 2023

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

Dear Rechelle,

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

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

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

We look forward to working with you.

Sincerely,

A handwritten signature in black ink that reads 'Sandy Skolochenko'.

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



Notice of Certain Reporting and Audit Requirements

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

Reporting Thresholds.

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

- (1) Less than \$25,000 – A recipient or subrecipient that receives, hold, uses, or expends State financial assistance in an amount less than twenty-five thousand dollars (\$25,000) within its fiscal year must comply with the reporting requirements established by this Subchapter including:
 - (A) A certification that State financial assistance received or held was used for the purposes for which it was awarded; and
 - (B) An accounting of all State financial assistance received, held, used, or expended.
- (2) \$25,000 up to \$500,000 -A recipient or subrecipient that receives, holds uses, or expends State financial assistance in an amount of at least twenty-five thousand (\$25,000) but less than five hundred thousand dollars (\$500,000) within its fiscal year must comply with the reporting requirements established by this Subchapter including:
 - (A) A certification that State financial assistance received or held was used for the purposes for which it was awarded; and
 - (B) An accounting of all State financial assistance received, held, used, or expended.
 - (C) A description of activities and accomplishments undertaken by the recipient, including reporting on any performance measures established in the contract.
- (3) Greater than \$500,000 – A recipient or subrecipient that receives, holds, uses, or expends State financial assistance in the amount equal to or greater than five hundred thousand dollars (\$500,000) within its fiscal year must comply with the reporting requirements established by this Subchapter including:
 - (A) A certification that State financial assistance received or held was used for the purposes for which it was awarded; and
 - (B) An accounting of all State financial assistance received, held, used, or expended.
 - (C) A description of activities and accomplishments undertaken by the recipient, including reporting on any performance measures established in the contract.
 - (D) A single or program-specific audit prepared and completed in accordance with Generally Accepted Government Auditing Standards, also known as the Yellow Book.

Other Provisions:

1. All reports shall be filed with the disbursing agency in the format and method specified by the agency no later than three (3) months after the end of the recipient's fiscal year, unless the same information is already required through more frequent reporting. Audits must be provided to the funding agency no later than nine (9) months after the end of the recipient's fiscal year.
2. Unless prohibited by law, the costs of audits made in accordance with the provisions of 09 NCAC 03M .0205 shall be allowable charges to State and Federal awards. The charges may be considered a direct cost or an allocated indirect cost, as determined in accordance with cost principles outlined in the Code of Federal Regulations, 2CFR Part 200. The cost of any audit not conducted in accordance with this Subchapter shall not be charged to State awards.
3. Notwithstanding the provisions of 09 NCAC 03M .0205, a recipient may satisfy the reporting requirements of Part (3)(D) of this Rule by submitting a copy of the report required under the federal law with respect to the same funds.
4. Agency-established reporting requirements to meet the standards set forth in this Subchapter shall be specified in each recipient's contract.



Town of Black Mountain

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

Mayor
C. Michael Sobol

Town Manager
Josh M. Harrold

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

Town Clerk
Savannah Parrish

March 31, 2023

CONFLICT OF INTEREST POLICY

Conflict of Interest Defined:

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

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

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

Employee Responsibilities:

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

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

Acceptance of Gifts:

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

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

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



Town of Black Mountain

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Town Clerk
Savannah Parrish

March 31, 2023

No Overdue Tax Debts Certification

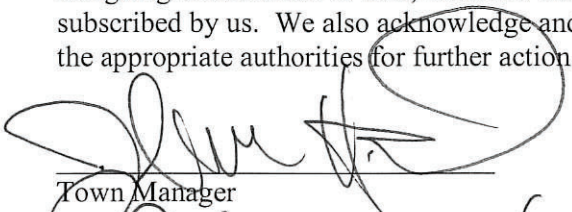
To: Office of State Budget and Management, Director and Chief Fiscal Officer

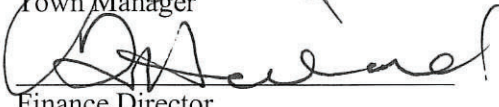
Certification:

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

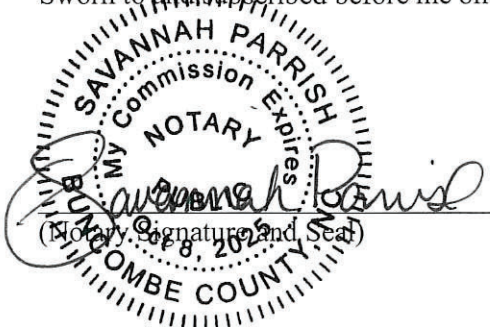
Sworn Statement:

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


Town Manager


Finance Director

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



My Commission Expires: Oct. 8, 2025



841 Meacham Rd, Statesville, NC, 28677
PHONE: 800-424-0422 FAX: 833-930-1124
WQ-10303151

Sell To:

Contact Name	Rechelle Ray	Ship To Name	Town of Black Mountain
Bill To Name	Town of Black Mountain	Ship To	102 Montreat Rd
Bill To	102 Montreat Rd		Black Mountain, NC 28711
	Black Mountain, NC 28711		USA
	USA	Quick Ship	☐
Email	rechelle.ray@tobm.org		
Phone	(828) 419-9393		

Quote Information

Salesperson	Brittany Hicks	Created Date	2/21/2024
Salesperson Email	bhicks@wastequip.com	Expiration Date	3/7/2024
		Quote Number	WQ-10303151
			Please Reference Quote Number on all Purchase Orders

Product	Product Description	Selected Option	Quantity	Sales Price	Total Price
**Plastics - 79264	Model 79264 - Toter 64 Gallon EVR II Universal/Nestable Cart	---Body Color - (705) Blue ---Lid Color - (705) Blue ---Body Hot Stamp on Both Sides (Existing) in White ---Lid Hot Stamp Insert - Read from Street (Existing) in White ---Wheels - 10in Sunburst ---Toter Serial Number Hot Stamped on Front of Cart Body in White ---Ultra High Frequency RFID Tag ---2/3 Assembled with Lid (down), Stop Bar and Axle Factory Installed ---Warranty - 12 Yrs Cart Body, All other components 10 Yrs	960.00	\$50.01	\$48,009.60
**Plastics - 79296	Model 79296 - Toter 96 Gallon EVR II Universal/Nestable Cart	---Body Color - (705) Blue ---Lid Color - (705) Blue ---Body Hot Stamp on Both Sides (New) in (Not provided) ---Lid Hot Stamp Insert- Read from Street (New) in (Not provided) ---Wheels - 10in Sunburst ---Toter Serial Number Hot Stamped on Front of Cart Body in White ---Ultra High Frequency RFID Tag ---2/3 Assembled with Lid (down), Stop Bar and Axle Factory Installed ---Warranty - 12 Yrs Cart Body, All other components 10 Yrs	3,040.00	\$60.75	\$184,680.00



841 Meacham Rd, Statesville, NC, 28677

PHONE: 800-424-0422 FAX: 833-930-1124

WQ-10303151

Payment Terms	Net 30 Days if credit has been established	Subtotal	\$232,689.60
Shipping Terms	FOB Origin	Shipping	\$9,990.00
		Tax	\$16,987.57
		Grand Total	\$259,667.17

Additional Information

Additional Terms	Our Quote serves as an offer to provide Products and/or services at the quantities and prices shown and is a good faith estimate, based on our understanding of your needs. By signing below, you indicate your acceptance of our offer which is expressly subject to the Wastequip Terms & Conditions of Sale ("Wastequip's Terms") located at: https://www.wastequip.com/terms-conditions-sale, as of the date set forth in Section 1(b) of the WQ T&C, which are made a part of this Quote. Wastequip's Terms may be updated from time to time and are available by hard copy upon request. Any changes or deviations to the terms of this Quote, including any different terms in an Order submitted by you, must be agreed upon in writing by both parties.
Additional Information	Pricing is based on your acceptance prior to the expiration of this Quote, including product specifications, quantities, and timing. Any differences to your Order may result in different pricing, freight or other costs. Due to volatility in petrochemical, steel and related Product material markets, actual prices and freight, are subject to change. We reserve the right, by providing notice to you at any time before beginning Product manufacturing, to increase the price of the Product(s) to reflect any increase in the cost to us which is due to any factor beyond our control (such as, without limitation, any increase in the costs of labor, materials, or other costs of manufacture or supply). Unless otherwise stated, materials and container sizes indicated on sales literature, invoices, price lists, quotations and delivery tickets are nominal sizes and representations – actual volume, Products and materials are subject to manufacturing and commercial variation and Wastequip's practices, and may vary from nominal sizes and materials. All prices are in US dollars; this Quote may not include all applicable taxes, brokerage fees or duties. If customer is not tax exempt, final tax calculations are subject to change.
Special Contract Information	Sourcwell – Pricing and Products/Services offerings are based on the Sourcwell Co-Operative Contract with Toter, LLC (#041521, eff. 5/25/2021), and such Contract terms and conditions are incorporated herein by reference. Pricing and Products/Services changes may occur at any time with proper documentation, and subject to Sourcwell approval; therefore, offerings may change without written prior notice. Wastequip Product Limited Warranties, Disclaimers, Limitation of Liability and Remedies, and Limited Warranty Provisions apply to all purchases thereunder.

Signatures

Accepted By: _____

Company Name: _____

Date: _____

Purchase Order: _____

Please Reference Quote Number on all Purchase Orders



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Wesley Barker, *Town Clerk* **MEETING DATE:** March 1, 2024

AGENDA SECTION: CONSENT **DEPARTMENT:** Administration

TITLE OF ITEM: Amendment to the 2024 Town Council Meeting Calendar to Accommodate FY 24-25 Budget Work Sessions.

SUGGESTED MOTION(S):

I move that Council adopt the amendment to the Town Council Meeting Calendar to accommodate FY 24-25 budget work sessions as presented.

SUMMARY:

Town Council adopted their annual Town Council Meeting Schedule/Calendar on December 11, 2023 for the 2024 calendar year. With budget planning season approaching, Town Manager Josh Harrold has proposed several additional meeting dates for Town Council to meet for FY24-25 budget planning sessions. These proposed dates are as follows:

- Budget work session #1 - Thursday March 21, 2024 at 8:30am
- Budget work session #2 - Thursday March 28, 2024 at 8:30am
- Budget work session #3 - Thursday April 11, 2024 at 8:30am
- Budget work session #4 - Thursday April 18, 2024 at 8:30am
- Budget work session #5 - Thursday April 25, 2024 at 8:30am (**if needed**)

Once approved, the budget workshop meeting dates will be added to the town meetings calendar on our website, on the public bulletin board outside of Town Hall and sent to the local media.

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: N/A



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Tammy Holland, *Finance Director* **MEETING DATE:** March 11, 2024
AGENDA SECTION: Consent Agenda **DEPARTMENT:** Finance
TITLE OF ITEM: Approval of 2024 Audit Contract from Gould Killian CPA Group, P.A. – *Tammy Holland, Finance Director*

SUGGESTED MOTION(S): I recommend that Town Council approve the fiscal year 2024 Contract to Audit Accounts from Gould Killian, CPA Group, P.A.

SUMMARY:

Requesting board approval and authorization of Town Manager to execute the audit contract of accounts for the fiscal year ending June 30, 2024.

At the end of each fiscal year, the Town is required by General Statute 159-34 to have a third-party independent audit performed.

Attached is the standard Contract to Audit Accounts (LGC-205) and the Town of Black Mountain Fiscal Year 2024 Audit Engagement Letter, as provided by Gould Killian, CPA Group, P.A. The audit contract fee is \$54,400, this fee includes \$49,900 for the standard Audit Contract and \$4,500 for the Single Audit for one account.

The Local Government Commission (LGC) must approve the contract prior to the audit work beginning.

ATTACHMENTS:

- i. Fiscal Year 2024 Audit Contract Agreement LGC-205
- ii. Letter of Engagement – Gould Killian, CPA Group, P.A.

The	Governing Board
of	Town Council
	Primary Government Unit
	Town of Black Mountain
and	Discretely Presented Component Unit (DPCU) (if applicable)
	N/A

Primary Government Unit, together with DPCU (if applicable), hereinafter referred to as Governmental Unit(s)

and	Auditor Name
	Gould Killian CPA Group, P.A.
	Auditor Address
	100 Coxe Avenue, Asheville, NC 28801

Hereinafter referred to as Auditor

for	Fiscal Year Ending	Date Audit Will Be Submitted to LGC
	06/30/24	10/31/24

Must be within four months of FYE

hereby agree as follows:

1. The Auditor shall audit all statements and disclosures required by U.S. generally accepted auditing standards (GAAS) and additional required legal statements and disclosures of all funds and/or divisions of the Governmental Unit(s). The non-major combining, and individual fund statements and schedules shall be subjected to the auditing procedures applied in the audit of the basic financial statements and an opinion shall be rendered in relation to (as applicable) the governmental activities, the business- type activities, the aggregate DPCUs, each major governmental and enterprise fund, and the aggregate remaining fund information (non-major government and enterprise funds, the internal service fund type, and the fiduciary fund types). The basic financial statements shall include budgetary comparison information in a budgetary comparison statement, rather than as RSI, for the General Fund and any annually budgeted Special Revenue funds.

2. At a minimum, the Auditor shall conduct the audit and render the report in accordance with GAAS. The Auditor shall perform the audit in accordance with *Government Auditing Standards (GAGAS)* if the Governmental Unit expended \$100,000 or more in combined Federal and State financial assistance during the reporting period. The auditor shall perform a Single Audit if required by Title 2 US Code of Federal Regulations Part 200 *Uniform Administration Requirements, Cost Principles, and Audit Requirements for Federal Awards, Subpart F* (Uniform Guidance) or the State Single Audit Implementation Act. This audit and all associated audit documentation may be subject to review by Federal and State agencies in accordance with Federal and State laws, including the staffs of the Office of State Auditor (OSA) and the Local Government Commission (LGC). If the audit requires a federal single audit in accordance with the Uniform Guidance (§200.501), it is recommended that the Auditor and Governmental Unit(s) jointly agree, in advance of the execution of this contract, which party is responsible for submission of the audit and the accompanying data collection form to the Federal Audit Clearinghouse as required under the Uniform Guidance (§200.512).

Effective for audits of fiscal years beginning on or after June 30, 2023, the LGC will allow auditors to consider whether a unit qualifies as a State low-risk auditee based upon federal criteria in the Uniform Guidance §200.520(a), and (b) through (e) as it applies to State awards. In addition to the federal criteria in the Uniform Guidance, audits must have been submitted timely to the LGC. If in the reporting year, or in either of the two previous years, the unit reported a Financial Performance Indicator of Concern that the audit was late, then

the report was not submitted timely for State low-risk auditee status. Please refer to "Discussion of Single Audits in North Carolina" on the LGC's website for more information.

If the audit and Auditor communication are found in this review to be substandard, the results of the review may be forwarded to the North Carolina State Board of CPA Examiners (NC State Board).

3. If an entity is determined to be a component of another government as defined by the group audit standards, the entity's auditor shall make a good faith effort to comply in a timely manner with the requests of the group auditor in accordance with AU-6 §600.41 - §600.42.

4. This contract contemplates an unmodified opinion being rendered. If during the process of conducting the audit, the Auditor determines that it will not be possible to render an unmodified opinion on the financial statements of the unit, the Auditor shall contact the LGC Staff to discuss the circumstances leading to that conclusion as soon as is practical and before the final report is issued. The audit shall include such tests of the accounting records and such other auditing procedures as are considered by the Auditor to be necessary in the circumstances. Any limitations or restrictions in scope which would lead to a qualification should be fully explained in an attachment to this contract.

5. If this audit engagement is subject to the standards for audit as defined in *Government Auditing Standards*, 2018 revision, issued by the Comptroller General of the United States, then by accepting this engagement, the Auditor warrants that he/she has met the requirements for a peer review and continuing education as specified in *Government Auditing Standards*. The Auditor agrees to provide a copy of the most recent peer review report to the Governmental Unit(s) and the Secretary of the LGC prior to the execution of an audit contract. Subsequent submissions of the report are required only upon report expiration or upon auditor's receipt of an updated peer review report. If the audit firm received a peer review rating other than pass, the Auditor shall not contract with the Governmental Unit(s) without first contacting the Secretary of the LGC for a peer review analysis that may result in additional contractual requirements.

If the audit engagement is not subject to *Government Auditing Standards* or if financial statements are not prepared in accordance with U.S. generally accepted accounting principles (GAAP) and fail to include all disclosures required by GAAP, the Auditor shall provide an explanation as to why in an attachment to this contract or in an amendment.

6. It is agreed that time is of the essence in this contract. All audits are to be performed and the report of audit submitted to LGC Staff within four months of fiscal year end. If it becomes necessary to amend the audit fee or the date that the audit report will be submitted to the LGC, an amended contract along with a written explanation of the change shall be submitted to the Secretary of the LGC for approval.

7. It is agreed that GAAS include a review of the Governmental Unit's (Units') systems of internal control and accounting as same relate to accountability of funds and adherence to budget and law requirements applicable thereto; that the Auditor shall make a written report, which may or may not be a part of the written report of audit, to the Governing Board setting forth his/her findings, together with his recommendations for improvement. That written report shall include all matters defined as "significant deficiencies and material weaknesses" in AU-C 265 of the *AICPA Professional Standards (Clarified)*. The Auditor shall file a copy of that report with the Secretary of the LGC.

For GAAS or *Government Auditing Standards* audits, if an auditor issues an AU-C §260 report, commonly referred to as "Governance Letter," LGC staff does not require the report to be submitted unless the auditor cites significant findings or issues from the audit, as defined in AU-C §260.12 - .14. This would include issues such as difficulties encountered during the audit, significant or unusual transactions, uncorrected misstatements, matters that are difficult or contentious reviewed with those charged with governance, and other significant matters. If matters identified during the audit were required to be reported as described in AU-C §260.12-.14 and were communicated in a method other than an AU-C §260 letter, the written documentation must be submitted.

8. All local government and public authority contracts for audit or audit-related work require the approval of the Secretary of the LGC. This includes annual or special audits, agreed upon procedures related to internal controls, bookkeeping or other assistance necessary to prepare the Governmental Unit's records for audit, financial statement preparation, any finance-related investigations, or any other audit-related work in the State of North Carolina. Approval is also required for the Alternative Compliance Examination Engagement for auditing the Coronavirus State and Local Fiscal Recovery Funds expenditures as allowed by US Treasury. Approval is not required on audit contracts and invoices for system improvements and similar services of a non-auditing nature.
9. Invoices for services rendered under these contracts shall not be paid by the Governmental Unit(s) until the invoice has been approved by the Secretary of the LGC. This also includes any progress billings [G.S. 159-34 and 115C-447]. All invoices for audit work shall be submitted in PDF format to the Secretary of the LGC for approval. The invoice marked 'approved' with approval date shall be returned to the Auditor to present to the Governmental Unit(s) for payment. This paragraph is not applicable to contracts for audits of hospitals.
10. In consideration of the satisfactory performance of the provisions of this contract, the Governmental Unit(s) shall pay to the Auditor, upon approval by the Secretary of the LGC if required, the fee, which includes any costs the Auditor may incur from work paper or peer reviews or any other quality assurance program required by third parties (federal and state grantor and oversight agencies or other organizations) as required under the Federal and State Single Audit Acts. This does not include fees for any pre-issuance reviews that may be required by the NC Association of CPAs (NCACPA) Peer Review Committee or NC State Board of CPA Examiners (see Item 13).
11. If the Governmental Unit(s) has/have outstanding revenue bonds, the Auditor shall submit to LGC Staff, either in the notes to the audited financial statements or as a separate report, a calculation demonstrating compliance with the revenue bond rate covenant. Additionally, the Auditor shall submit to LGC Staff simultaneously with the Governmental Unit's (Units') audited financial statements any other bond compliance statements or additional reports required by the authorizing bond documents, unless otherwise specified in the bond documents.
12. After completing the audit, the Auditor shall submit to the Governing Board a written report of audit. This report shall include, but not be limited to, the following information: (a) Management's Discussion and Analysis, (b) the financial statements and notes of the Governmental Unit(s) and all of its component units prepared in accordance with GAAP, (c) supplementary information requested by the Governmental Unit(s) or required for full disclosure under the law, and (d) the Auditor's opinion on the material presented. The Auditor shall furnish the required number of copies of the report of audit to the Governing Board upon completion.
13. If the audit firm is required by the NC State Board, the NCACPA Peer Review Committee, or the Secretary of the LGC to have a pre-issuance review of its audit work, there shall be a statement in the engagement letter indicating the pre-issuance review requirement. There also shall be a statement that the Governmental Unit(s) shall not be billed for the pre-issuance review. The pre-issuance review shall be performed prior to the completed audit being submitted to LGC Staff. The pre-issuance review report shall accompany the audit report upon submission to LGC Staff.

14. The Auditor shall submit the report of audit in PDF format to LGC Staff. For audits of units other than hospitals, the audit report should be submitted when (or prior to) submitting the final invoice for services rendered. The report of audit, as filed with the Secretary of the LGC, becomes a matter of public record for inspection, review and copy in the offices of the LGC by any interested parties. Any subsequent revisions to these reports shall be sent to the Secretary of the LGC. These audited financial statements, excluding the Auditors' opinion, may be used in the preparation of official statements for debt offerings by municipal bond rating services to fulfill secondary market disclosure requirements of the Securities and Exchange Commission and for other lawful purposes of the Governmental Unit(s) without requiring consent of the Auditor. If the LGC Staff determines that corrections need to be made to the Governmental Unit's (Units') financial statements and/or the compliance section, those corrections shall be provided within three business days of notification unless another deadline is agreed to by LGC Staff.

15. Should circumstances disclosed by the audit call for a more detailed investigation by the Auditor than necessary under ordinary circumstances, the Auditor shall inform the Governing Board in writing of the need for such additional investigation and the additional compensation required therefore. Upon approval by the Secretary of the LGC, this contract may be modified or amended to include the increased time, compensation, or both as may be agreed upon by the Governing Board and the Auditor.

16. If an approved contract needs to be modified or amended for any reason, the change shall be made in writing and pre-audited if the change includes a change in audit fee (pre-audit requirement does not apply to hospitals). This amended contract shall be completed in full, including a written explanation of the change, signed and dated by all original parties to the contract. It shall then be submitted to the Secretary of the LGC for approval. No change to the audit contract shall be effective unless approved by the Secretary of the LGC.

17. A copy of the engagement letter, issued by the Auditor and signed by both the Auditor and the Governmental Unit(s), shall be attached to this contract, and except for fees, work, and terms not related to audit services, shall be incorporated by reference as if fully set forth herein as part of this contract. In case of conflict between the terms of the engagement letter and the terms of this contract, the terms of this contract shall take precedence. Engagement letter terms that conflict with the contract are deemed to be void unless the conflicting terms of this contract are specifically deleted in Item 30 of this contract. Engagement letters containing indemnification clauses shall not be accepted by LGC Staff.

18. Special provisions should be limited. Please list any special provisions in an attachment.

19. A separate contract should not be made for each division to be audited or report to be submitted. If a DPCU is subject to the audit requirements detailed in the Local Government Budget and Fiscal Control Act and a separate audit report is issued, a separate audit contract is required. If a separate report is not to be issued and the DPCU is included in the primary government audit, the DPCU shall be named along with the primary government on this audit contract. DPCU Board approval date, signatures from the DPCU Board chairman and finance officer also shall be included on this contract.

20. The contract shall be executed, pre-audited (pre-audit requirement does not apply to hospitals), and physically signed by all parties including Governmental Unit(s) and the Auditor, then submitted in PDF format to the Secretary of the LGC.

21. The contract is not valid until it is approved by the Secretary of the LGC. The staff of the LGC shall notify the Governmental Unit and Auditor of contract approval by email. The audit should not be started before the contract is approved.

22. Retention of Client Records: Auditors are subject to the NC State Board of CPA Examiners' Retention of Client Records Rule 21 NCAC 08N .0305 as it relates to the provision of audit and other attest services, as well as non-attest services. Clients and former clients should be familiar with the requirements of this rule prior to requesting the return of records.

23. This contract may be terminated at any time by mutual consent and agreement of the Governmental Unit(s) and the Auditor, provided that (a) the consent to terminate is in writing and signed by both parties, (b) the parties have agreed on the fee amount which shall be paid to the Auditor (if applicable), and (c) no termination shall be effective until approved in writing by the Secretary of the LGC.

24. The Governmental Unit's (Units') failure or forbearance to enforce, or waiver of, any right or an event of breach or default on one occasion or instance shall not constitute the waiver of such right, breach or default on any subsequent occasion or instance.

25. There are no other agreements between the parties hereto and no other agreements relative hereto that shall be enforceable unless entered into in accordance with the procedure set out herein and approved by the Secretary of the LGC.

26. E-Verify. Auditor shall comply with the requirements of NCGS Chapter 64 Article 2. Further, if Auditor utilizes any subcontractor(s), Auditor shall require such subcontractor(s) to comply with the requirements of NCGS Chapter 64, Article 2.

27. **Applicable to audits with fiscal year ends of June 30, 2020 and later.** For all non-attest services, the Auditor shall adhere to the independence rules of the AICPA Professional Code of Conduct and *Government Auditing Standards, 2018 Revision* (as applicable). Financial statement preparation assistance shall be deemed a "significant threat" requiring the Auditor to apply safeguards sufficient to reduce the threat to an acceptable level. If the Auditor cannot reduce the threats to an acceptable level, the Auditor cannot complete the audit. If the Auditor is able to reduce the threats to an acceptable level, the documentation of this determination, including the safeguards applied, must be included in the audit workpapers.

All non-attest service(s) being performed by the Auditor that are necessary to perform the audit must be identified and included in this contract. The Governmental Unit shall designate an individual with the suitable skills, knowledge, and/or experience (SKE) necessary to oversee the services and accept responsibility for the results of the services performed. If the Auditor is able to identify an individual with the appropriate SKE, s/he must document and include in the audit workpapers how he/she reached that conclusion. If the Auditor determines that an individual with the appropriate SKE cannot be identified, the Auditor cannot perform both the non-attest service(s) and the audit. See "Fees for Audit Services" page of this contract to disclose the person identified as having the appropriate SKE for the Governmental Unit.

28. **Applicable to audits with fiscal year ends of June 30, 2021 and later.** The auditor shall present the audited financial statements including any compliance reports to the government unit's governing body or audit committee in an official meeting in open session as soon as the audited financial statements are available but not later than 45 days after the submission of the audit report to the Secretary. The auditor's presentation to the government unit's governing body or audit committee shall include:

- a) the description of each finding, including all material weaknesses and significant deficiencies, as found by the auditor, and any other issues related to the internal controls or fiscal health of the government unit as disclosed in the management letter, the Single Audit or Yellow Book reports, or any other communications from the auditor regarding internal controls as required by current auditing standards set by the Accounting Standards Board or its successor;
- b) the status of the prior year audit findings;
- c) the values of Financial Performance Indicators based on information presented in the audited financial statements; and
- d) notification to the governing body that the governing body shall develop a "Response to the Auditor's Findings, Recommendations, and Fiscal Matters," if required under 20 NCAC 03 .0508.

29. Information based on the audited financial statements shall be submitted to the Secretary for the purpose of identifying Financial Performance Indicators and Financial Performance Indicators of Concern. See 20 NCAC 03 .0502(c)(6).

30. All of the above paragraphs are understood and shall apply to this contract, except the following numbered paragraphs shall be deleted (See Item 17 for clarification).

31. The process for submitting contracts, audit reports and invoices is subject to change. Auditors and units should use the submission process and instructions in effect at the time of submission. Refer to the N.C. Department of State Treasurer website at <https://www.nctreasurer.com/state-and-local-government-finance-division/local-government-commission/submitting-your-audit>

32. All communications regarding audit contract requests for modification or official approvals will be sent to the email addresses provided on the signature pages that follow.

33. Modifications to the language and terms contained in this contract form (LGC-205) are not allowed.

FEES FOR AUDIT SERVICES

1. For all non-attest services, the Auditor shall adhere to the independence rules of the AICPA Professional Code of Conduct (as applicable) and *Government Auditing Standards, 2018 Revision*. Refer to Item 27 of this contract for specific requirements. The following information must be provided by the Auditor; contracts presented to the LGC without this information will be not be approved.

Financial statements were prepared by: ☒ Auditor ☐ Governmental Unit ☐ Third Party

If applicable: Individual at Governmental Unit designated to have the suitable skills, knowledge, and/or experience (SKE) necessary to oversee the non-attest services and accept responsibility for the results of these services:

Name:

Title and Unit / Company:

Email Address:

Tammy Holland

Fin Director/Town of Black Mtn

tammy.holland@tobm.org

OR Not Applicable ☐ (Identification of SKE Individual on the LGC-205 Contract is not applicable for GAAS-only audits or audits with FYEs prior to June 30, 2020.)

2. Fees may not be included in this contract for work performed on Annual Financial Information Reports (AFIRs), Form 990s, or other services not associated with audit fees and costs. Such fees may be included in the engagement letter but may not be included in this contract or in any invoices requiring approval of the LGC. See Items 8 and 13 for details on other allowable and excluded fees.

3. The audit fee information included in the table below for both the Primary Government Fees and the DPCU Fees (if applicable) should be reported as a specific dollar amount of audit fees for the year under this contract. If any language other than an amount is included here, the contract will be returned to the audit form for correction.

4. Prior to the submission of the completed audited financial report and applicable compliance reports subject to this contract, or to an amendment to this contract (if required) the Auditor may submit interim invoices for approval for services rendered under this contract to the Secretary of the LGC, not to exceed 75% of the billings for the unit's last annual audit that was submitted to the Secretary of the LGC. All invoices for services rendered in an audit engagement as defined in 20 NCAC .0503 shall be submitted to the Commission for approval before any payment is made. Payment before approval is a violation of law. (This paragraph not applicable to contracts and invoices associated with audits of hospitals).

Primary Government Unit	Town of Black Mountain
Audit Fee (financial and compliance if applicable)	\$ 43,400
Fee per Major Program (if not included above)	\$ 4,500 (Not to exceed amount includes 1 major program)
Additional Fees Not Included Above (if applicable):	
Financial Statement Preparation (incl. notes and RSI)	\$ 6,500
All Other Non-Attest Services	\$
TOTAL AMOUNT NOT TO EXCEED	\$ 54,400

Discretely Presented Component Unit	N/A
Audit Fee (financial and compliance if applicable)	\$
Fee per Major Program (if not included above)	\$
Additional Fees Not Included Above (if applicable):	
Financial Statement Preparation (incl. notes and RSI)	\$
All Other Non-Attest Services	\$
TOTAL AMOUNT NOT TO EXCEED	\$

SIGNATURE PAGE

AUDIT FIRM

Audit Firm* Gould Killian CPA Group, P.A.	
Authorized Firm Representative (typed or printed)* Travis S. Keever	Signature* 
Date* 02/27/24	Email Address* tkeever@gk-cpa.com

GOVERNMENTAL UNIT

Governmental Unit* Town of Black Mountain	
Date Governing Board Approved Audit Contract* (Enter date in box to right)	
Mayor/Chairperson (typed or printed)*	Signature*
Date	Email Address*

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

GOVERNMENTAL UNIT – PRE-AUDIT CERTIFICATE

Required by G.S. 159-28(a1) or G.S. 115C-441(a1). Not applicable to hospital contracts.

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.

Sum Obligated by This Transaction:	\$ 54,400
Primary Governmental Unit Finance Officer* (typed or printed)	Signature*
Date of Pre-Audit Certificate*	Email Address*

SIGNATURE PAGE – DPCU
(complete only if applicable)

DISCRETELY PRESENTED COMPONENT UNIT

DPCU*	
N/A	
Date DPCU Governing Board Approved Audit Contract* (Enter date in box to right)	
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

Required by G.S. 159-28(a1) or G.S. 115C-441(a1). Not applicable to hospital contracts.

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.

Sum Obligated by this Transaction:	\$
DPCU Finance Officer (typed or printed)*	Signature*
Date of Pre-Audit Certificate*	Email Address*

Remember to print this form, and obtain all
 required signatures prior to submission.

PRINT



February 19, 2024

To the Honorable Mayor
Members of Town Council
Town of Black Mountain
160 Midland Avenue
Black Mountain, NC 28711

Agreement to Provide Services

This agreement to provide services (the “Agreement”) is intended to describe the nature and scope of our services.

Objectives and Scope of the Audit

As agreed, Gould Killian CPA Group, P.A. (“GK” or “we”) will audit the financial statements of the governmental activities, business-type activities, the discretely presented component unit, each major fund, and the aggregate remaining fund information, including the related notes to the financial statements, which collectively comprise the basic financial statements, of Town of Black Mountain as of and for the year ended June 30, 2024. Accounting standards generally accepted in the United States of America provide for certain required supplementary information (RSI), such as management’s discussion and analysis (MD&A), to supplement Town of Black Mountain’s basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to Town of Black Mountain’s RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management’s responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

1. Management’s Discussion and Analysis
2. Required schedules for Law Enforcement Officers’ Special Separation Allowance

3. Required schedules for the Local Government Employees' Retirement System
4. Required schedules for the Retiree Health Benefit Fund

We have also been engaged to report on supplementary information other than RSI that accompanies Town of Black Mountain's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. We will provide an opinion on it in relation to the financial statements as a whole, in a separate written report accompanying our auditor's report on the financial statements:

1. Combining and individual fund statements, budgetary schedules, and other schedules
2. Schedule of expenditures of federal and state awards (when applicable)

The introductory and statistical sections will not be subjected to the auditing procedures applied in the audit of the basic financial statements and, accordingly, we will not express an opinion or provide any assurance on them.

Audit Objectives

The objectives of our audit are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and issue an auditor's report that includes our opinions about whether your financial statements are fairly presented, in all material respects, in conformity with GAAP, and report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS and *Government Auditing Standards* will always detect a material misstatement when it exists. Misstatements, including omissions, can arise from fraud or error and are considered material if there is a substantial likelihood that, individually-or in the aggregate, they would influence the judgment of a reasonable user made based on the financial statements. The objectives also include reporting on —

- Internal control over financial reporting and compliance with provisions of laws, regulations, contracts, and award agreements, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.
- (Only if a single audit is determined to be required) – internal control over compliance related to major programs and an opinion on compliance with federal statutes, regulations, and the terms and conditions of federal and state awards that could have a direct and material effect on each major program in accordance with Single Audit Act Amendments of 1996 and *Title 2 U.S. Code of Federal Regulations (CFR) part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance)*.

Auditor's Responsibilities for the Audit of Financial Statements and Single Audit (if applicable)

We will conduct our audit in accordance with GAAS; the standards for financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; and the provisions of the Uniform Guidance, and will include tests of accounting records, a determination of major program(s) in accordance with the Uniform Guidance, and other procedures we consider necessary to enable us to express such opinions. As part of an audit in accordance with GAAS and *Government Auditing Standards*, we will exercise professional judgment and maintain professional skepticism throughout the audit.

We will evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management. We will also evaluate the overall presentation of the financial statements, including the disclosures, and determine whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation. We will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the government. Because the determination of waste and abuse is subjective, *Government Auditing Standards* do not expect auditors to perform specific procedures to detect waste or abuse in financial audits nor do they expect auditors to provide reasonable assurance of detecting waste or abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements or noncompliance may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards and *Government Auditing Standards*. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or major programs. However, we will inform the appropriate level of management of any material errors, any fraudulent financial reporting, or misappropriation of assets that come to our attention. We will bring these misstatements to your attention as proposed adjustments. At the conclusion of our audit we will communicate to those charged with governance (as defined below) all uncorrected misstatements. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential, and of any material abuse that comes to our attention. We will include such matters in the reports required for a Single Audit, if applicable. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

We will also conclude, based on the audit evidence obtained, whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the government's ability to continue as a going concern for a reasonable period of time.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry.

We have identified the following significant risk of material misstatement as part of our audit planning:

1. Management's override of internal controls
2. Incorrect account balances due to lack of reconciliation between general ledger and subledger

Audit Procedures—Internal Control

We will obtain an understanding of the Town and its environment, including internal control relevant to the audit, sufficient to identify and assess the risks of material misstatement of the financial statements, whether due to error or fraud, and to design and perform audit procedures responsive to those risks and to obtain evidence sufficient and appropriate to provide a basis for our opinions. The risk of not detecting a material misstatement resulting from fraud is higher than one resulting from error, as fraud may involve collusion, intentional omissions, misrepresentation, or the override of internal control. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

As required by Uniform Guidance (if a Single Audit is required), we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal and state award program, as required by the Uniform Guidance. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to the Uniform Guidance.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. Accordingly, we will express no such opinion. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards, *Government Auditing Standards*, and the Uniform Guidance.

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the Town of Black Mountain's compliance with provisions of applicable laws, regulations, contracts, and agreements, including grant agreements. However, the objective of those procedures will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

If a Single Audit is required, the Uniform Guidance requires that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with federal statutes, regulations, and the terms and conditions of federal and state awards applicable to major programs. Our procedures will consist of tests of transactions and other applicable procedures described in the *OMB Compliance Supplement* for the types of compliance requirements that could have a direct and material effect on each of the Town of Black Mountain's major programs. For federal programs that are included in the Compliance Supplement, our compliance and internal control procedures will relate to the compliance requirements that the Compliance Supplement identifies as being subject to an audit. The purpose of these procedures will be to express an opinion on the Town of Black Mountain's compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to the Uniform Guidance.

Management Responsibilities for the Financial Statements and Single Audit (if applicable)

Our audit will be conducted on the basis that you (management) acknowledge and understand that you are responsible for (1) establishing and maintaining effective internal controls, including internal controls over federal awards, and for evaluating and monitoring ongoing activities, to help ensure that appropriate goals and objectives are met; (2) following laws and regulations; (3) ensuring that there is reasonable assurance that Town programs are administered in compliance with compliance requirements; and (4) ensuring that management and financial information is reliable and properly reported. Management is also responsible for implementing systems designed to achieve compliance with applicable laws, regulations, contracts, and grant agreements. You are also responsible for the selection and application of accounting principles; for the preparation and fair presentation of the financial statements, schedule of expenditures of federal and state awards, and all accompanying information in conformity with U.S. generally accepted accounting principles; and for compliance with applicable laws and regulations (including federal statutes) and the provisions of contracts and grant agreements (including award agreements). Your responsibilities also include identifying significant contractor relationships in which the contractor has responsibility for program compliance and for the accuracy and completeness of that information.

Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, (2) access to personnel, accounts, books, records, supporting documentation, and other information as needed to perform an audit under *Government Audit Standards* and under Uniform Guidance, (3) additional information that we may request for the purpose of the audit, and (4) unrestricted access to persons within the Town from whom we determine it necessary to obtain audit evidence.

Management's responsibilities also include identifying and informing us of significant contractor relationships in which the contractor is responsible for program compliance and for the accuracy and completeness of that information.

Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the Town involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the Town received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the Town complies with applicable laws, regulations, contracts, agreements, and grants. Management is also responsible for taking timely and appropriate steps to remedy fraud and noncompliance with provisions of laws, regulations, contracts, and grant agreements, or abuse that we report. Additionally, as required by the Uniform Guidance, it is management's responsibility to evaluate and monitor noncompliance with federal statutes, regulations, and the terms and conditions of federal and state awards; take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings; promptly follow up and take corrective action on reported audit findings; and prepare a summary schedule of prior audit findings and a separate corrective action plan.

If a Single Audit is required, you are responsible for identifying all federal and state awards received and understanding and complying with the compliance requirements and for the preparation of the schedule of

expenditures of federal and state awards (including notes and noncash assistance received, and COVID-19 related concepts, such as lost revenues, if applicable) in conformity with the Uniform Guidance. You agree to include our report on the schedule of expenditures of federal and state awards in any document that contains and indicates that we have reported on the schedule of expenditures of federal and state awards. You also agree to include the audited financial statements with any presentation of the schedule of expenditures of federal and state awards that includes our report thereon OR make the audited financial statements readily available to intended users of the schedule of expenditures of federal and state awards no later than the date the schedule of expenditures of federal and state awards is issued with our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the schedule of expenditures of federal and state awards in accordance with the Uniform Guidance; (2) you believe the schedule of expenditures of federal and state awards, including its form and content, is stated fairly in accordance with the Uniform Guidance; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the schedule of expenditures of federal and state awards.

You are also responsible for the preparation of the other supplementary information, which we have been engaged to report on, in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains, and indicates that we have reported on, the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon OR make the audited financial statements readily available to users of the supplementary information no later than the date the supplementary information is issued with our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying and providing report copies of previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.

You agree to assume all management responsibilities relating to the financial statements, schedule of expenditures of federal and state awards, and related notes, and any other non-audit services we provide. You will be required to acknowledge in the management representation letter our assistance with preparation of the financial statements, schedule of expenditures of federal and state awards, and related notes and that you have reviewed and approved the financial statements, schedule of expenditures of federal and state awards, and related notes prior to their issuance and have accepted responsibility for them. Further, you agree to oversee the non-audit services by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; evaluate the adequacy and results of those services; and accept responsibility for them.

Reproduction of Audit Report

If the Town plans any reproduction or publication of a document that includes our report, or any portion of it, and that is assembled differently from any paper or electronic version that we have previously reviewed (e.g., by the addition of financial statements and/or accompanying information that you have produced), a copy of the entire document in its final form should be submitted to us in sufficient time for our review and written approval before printing. You also agree to provide us with a copy of the final reproduced material for our written approval before it is distributed. If, in our professional judgment, the circumstances require, we may withhold our written approval.

Posting of Audit Report and Financial Statements on Your Website

You agree that, if you plan to post an electronic version of the financial statements and audit report on your website, you will ensure that there are no differences in content between the electronic version of the financial statements and audit report on your website and the signed version of the financial statements and audit report provided to management by GK. You also agree to indemnify the GK from any and all claims that may arise from any differences between the electronic and signed versions.

Review of Documents In Connection With Offering of Sale of Debt

The audited financial statements and our report thereon should not be provided or otherwise made available to lenders, other financial institutions or sources of financing, or others (including advisors to such parties) in connection with any document to be used in the process of obtaining capital, including, without limitation, by means of the sale of securities (including securities offerings on the Internet) without first submitting copies of the document to us in sufficient time for our review and written approval. If, in our professional judgment, the circumstances require, we may withhold or condition our written approval.

Availability of Records and Personnel

You agree that all records, documentation, and information we request in connection with our audit will be made available to us (including those pertaining to related parties), that all material information will be disclosed to us, and that we will have the full cooperation of, and unrestricted access to, your personnel during the course of the engagement.

You also agree to ensure that any third-party valuation reports that you provide to us to support amounts or disclosures in the financial statements (a) indicate the purpose for which they were intended, which is consistent with your actual use of such reports; and (b) do not contain any restrictive language that would preclude us from using such reports as audit evidence.

Assistance by Your Personnel

We also ask that your personnel prepare various schedules and analyses for our staff. However, except as otherwise noted by us, no personal information other than names related to Town employees and/or customers should be provided to us. In addition, we ask that you provide high-speed Internet access to our engagement team, if practicable, while working on the Town's premises. This assistance will serve to facilitate the progress of our work.

Peer Review Reports

Government Auditing Standards requires that we provide you with a copy of our most recent quality control review report. Our latest peer review report accompanies this letter.

Other Services

We are always available to meet with you and members of Town Council at various times throughout the year to discuss current business, operational, accounting, and auditing matters affecting the Town. Whenever you feel such meetings are desirable, please let us know. We are also prepared to provide services to assist you in any of these areas. We will also be pleased, at your request, to attend governing board meetings.

We will also assist in preparing the financial statements, schedule of expenditures of federal and state awards (if applicable), and related notes of Town of Black Mountain in conformity with U.S. generally accepted accounting principles based on information provided by you. These non-audit services do not constitute an audit under *Government Auditing Standards* and such services will not be conducted in accordance with *Government Auditing Standards*. We will perform the services in accordance with applicable professional standards. The other services are limited to the financial statement services previously defined. We, in our sole professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

At the conclusion of the engagement, we will complete the appropriate sections of the Data Collection Form that summarizes our audit findings (if applicable). It is management's responsibility to electronically submit the reporting package (including financial statements, schedule of expenditures of federal and state awards, summary schedule of prior audit findings, auditor's reports, and corrective action plan) along with the Data Collection Form to the federal audit clearinghouse. We will coordinate with you the electronic submission and certification. The Data Collection Form and the reporting package must be submitted within the earlier of 30 calendar days after receipt of the auditor's reports or nine months after the end of the audit period.

Independence

Professional and certain regulatory standards require us to be independent, in both fact and appearance, with respect to the Town in the performance of our services. Any discussions that you have with personnel of GK regarding employment could pose a threat to our independence. Therefore, we request that you inform us prior to any such discussions so that we can implement appropriate safeguards to maintain our independence.

In order for us to remain independent, professional standards require us to maintain certain respective roles and relationships with you with respect to the non-attest services described above. Prior to performing such services in conjunction with our audit, management must acknowledge its acceptance of certain responsibilities.

We will not perform management functions or make management decisions on behalf of the Town. However, we will provide advice and recommendations to assist management of the Town in performing its functions and fulfilling its responsibilities.

The Town agrees to perform the following functions in connection with our performance of the financial statement services:

- a. Make all management decisions and perform all management functions with respect to the financial statement services provided by us.
- b. Assign Tammy Holland to oversee the financial statement services and evaluate the adequacy and results of the services.
- c. Accept responsibility for the results of the financial statement services.

The services are limited to those outlined above. We, in our professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as making management decisions or performing management functions. The Town must make all decisions with regard to our recommendations. By signing this Agreement, you acknowledge your acceptance of these responsibilities.

Engagement Administration, Fees, and Other

We will provide copies of our reports to the members of Town Council of the Town of Black Mountain; however, management is responsible for distribution of the reports and the financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

Many banks have engaged a third party to electronically process cash or debt audit confirmation requests, and certain of those banks have mandated the use of this service. Further, such third party confirmation processors also provide for the electronic (and manual) processing of other confirmation types (e.g., legal, accounts receivable, and accounts payable). To the extent applicable, the Town hereby authorizes GK to participate in such confirmation processes, including through the third party's website (e.g., by entering the Town's bank account information to initiate the process and then accessing the bank's confirmation response), and agrees that GK shall have no liability in connection therewith.

The audit documentation for this engagement is the property of Gould Killian CPA Group, P.A. and constitutes confidential information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request and in a timely manner to the North Carolina Local Government Commission or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Gould Killian CPA Group, P.A. personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of five years after the report release date or for any additional period requested by the federal or state oversight agency. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.

We expect to begin our audit in June 2024 and to issue our reports no later than October 31, 2024. Travis S. Keever is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them.

Our fixed charges to the Town for the services described above of \$49,900 are expected to be \$43,400 for the financial statement audit and \$6,500 for financial statement preparation. An additional variable fee of \$4,500 per major program will be charged should a federal and/or state single audit be necessary.

The fees are based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. We anticipate the time necessary to complete your audit will approximately 400 hours in total. If significant additional time is necessary (over 425 hours), we will discuss it with you and arrive at a new fee estimate before we incur the additional costs. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation.

This fee structure does not take into consideration effects that any future standards promulgated by the Governmental Accounting Standards Board and/or other professional bodies will have on our audit procedures. As we become aware of additional audit procedures resulting from these circumstances, we will notify you of the situation and the estimated additional cost.

As a result of future services to you, we might be requested or required to provide information or documents to you or a third party in a legal, administrative, arbitration, or similar proceeding in which we are not a party. If this occurs, our efforts in complying with such requests will be deemed billable to you as a separate engagement. We shall be entitled to compensation for our time and reasonable reimbursement for our expenses (including legal fees) in complying with the request. For all requests we will observe the confidentiality requirements of our profession and will notify you promptly of the request.

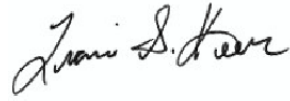
Reporting

We will issue written reports upon our completion of the audit. Our reports will be address to the members of the Town Council for the Town of Black Mountain, North Carolina. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which our report may differ from its expected form and content based on the results of our audit. Depending on the nature of these circumstances, it may be necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs to our auditor's report, or if necessary, withdraw from this engagement. If our opinions on the financial statements or the Single Audit compliance opinions are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or to issue reports, or may withdraw from this engagement.

The *Government Auditing Standards* report on internal control over financial reporting and on compliance and other matters will include a paragraph that states that (1) the purpose of the report is solely to describe the scope of testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance, and (2) the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. If applicable, the Uniform Guidance report on internal control over compliance will include a paragraph that states that the purpose of the report on internal control over compliance is solely to describe the scope of testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Both reports will state that the report is not suitable for any other purpose.

We believe the foregoing letter accurately summarized the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please acknowledge this by signing and returning to us a copy of this Agreement and retaining a copy for your files. We will forward the signed engagement letter and LGC contract to the Local Government Commission.

Very truly yours,



Travis S. Keever
Certified Public Accountant

RESPONSE:

This letter correctly sets forth the understanding of Town of Black Mountain.

Management signature: _____

Title: _____

Date: _____

Governance signature: _____

Title: _____

Date: _____



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Jessica Trotman, *Planning Director* **MEETING DATE:** March 11, 2024
AGENDA SECTION: CONSENT **DEPARTMENT:** Planning
TITLE OF ITEM: Call for Public Hearing for Voluntary Annexation of Property Owned by Givens Highland Farms

SUGGESTED MOTION(S):

To call for a public hearing for voluntary annexation for a parcel known as Buncombe County PIN #0609-56-5118.00000 to be held on Monday, April 8, 2024, at 6:00 p.m., or as soon thereafter as possible, in the Council Chambers of Town Hall, 160 Midland Avenue.

SUMMARY:

There is a 5.36 acre parcel off of Frances Avenue (identified as Buncombe County PIN #0609-56-5118.00000) that has been purchased by Givens Highland Farms. Givens Highland Farms is seeking voluntary annexation of this parcel to be able to combine the parcel with their existing 75+ acre campus, of which all is inside Town limits. The Planning Board heard this request at their February 26, 2024, meeting and found no reasons the property should not be annexed into the Town limits.

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:



LEGAL NOTICE

BLACK MOUNTAIN TOWN COUNCIL

PUBLIC HEARING

Monday, April 8, 2024, at 6:00 p.m.

The Black Mountain Town Council will meet on **Monday, April 8, 2024, at 6:00 p.m.** in the Council Chambers in the Town Hall Building, 160 Midland Avenue, Black Mountain, NC. The purpose of this meeting is to hold a public hearing for the voluntary annexation request of a property known as Buncombe County PIN #0609-56-5118.00000 as described in Plat Book 0236 Page 0100.

The meeting is open to the public.

Wesley M. Barker
Town Clerk

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

*Posted to the Town Bulletin Board 03/21/2024
Published in the Black Mountain News 03/28/2024 and 04/04/2024*

www.townofblackmountain.org



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Jessica Trotman, *Planning Director* **MEETING DATE:** March 11, 2024

AGENDA SECTION: CONSENT

DEPARTMENT: Planning

TITLE OF ITEM: Call for Public Hearing to Rezone 99999 Francis Avenue from R-1 to OI-6

SUGGESTED MOTION(S):

To call for a public hearing to rezone 99999 Francis Avenue (PIN #0609-56-5118.00000) from R-1 (Buncombe County zoning) to OI-6 (office and institutional) to be held on Monday, April 8, 2024, at 6:00 p.m., or as soon thereafter as possible, in the Council Chambers of Town Hall, 160 Midland Avenue.

SUMMARY:

There is a 5.36 acre parcel off of Frances Avenue (identified as Buncombe County PIN #0609-56-5118.00000) that has been purchased by Givens Highland Farms. The parcel is currently zoned R-1 by Buncombe County. Givens Highland Farms is also seeking voluntary annexation and if approved, would like to have the property rezoned to OI-6, which is the zoning designation for the existing 75+ acre campus. The Planning Board heard the request at their February 26th meeting and recommends the property be rezoned to OI-6 upon annexation into the Town limits. The motion passed with a vote of 5-0.

BUDGET IMPACT:

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

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

ATTACHMENTS:



LEGAL NOTICE

BLACK MOUNTAIN TOWN COUNCIL

PUBLIC HEARING

Monday, April 8, 2024, at 6:00 p.m.

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The meeting is open to the public.

Wesley M. Barker
Town Clerk

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TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Jessica Trotman, *Planning Director* **MEETING DATE:** March 11, 2024
AGENDA SECTION: RESOLUTION **DEPARTMENT:** Planning
TITLE OF ITEM: Resolution to apply for the Section 319 NPS Pollution Control Grant for Stream Restoration on Black Mountain Golf Course

SUGGESTED MOTION(S):

To approve the resolution to apply through the NC Department of Environmental Quality Section 319 NPS Pollution Control Grant for approximately three hundred and fifty linear feet of stream restoration on the Black Mountain Golf Course.

SUMMARY:

NCDEQ offers stream restoration grants through Section 319(h) of the Clean Water Act. The Town would like to apply for this grant to restore approximately three hundred and fifty linear feet of stream on the Black Mountain Golf Course. The project is estimated to cost \$110,000.

This grant requires 40% match which is planned to be paid over the next three years.

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 PURSUE A SECTION 319 NPS POLLUTION
CONTROL GRANT THROUGH THE NORTH CAROLINA
DEPARTMENT OF ENVIRONMENTAL QUALITY**

WHEREAS, through Section 319(h) of the Clean Water Act, the U.S. Environmental Protection Agency provides states with funding to reduce nonpoint source pollution; and

WHEREAS, the state of North Carolina typically receives around \$1 million for funding of watershed restoration projects; and

WHEREAS, the funds may be used to conduct watershed restoration projects such as stormwater and agricultural best management practices and restoration of impaired streams; and

WHEREAS, the Town of Black Mountain will apply for a Section 319 NPS Pollution Control Grant to conduct approximately three hundred and fifty linear feet of stream restoration on the Black Mountain Golf Course.

NOW THEREFORE, BE IT RESOLVED that the Black Mountain Town Council bless Town staff to apply for funding through the NCDEQ Section 319 NPS Pollution Control grant for stream restoration on the Black Mountain Golf Course.

I move and adopt the foregoing resolution:

Council Member

READ, APPROVED AND ADOPTED, by a vote of _____ to _____ on this 11th day of March 2024.

C. Michael Sobol, Mayor

ATTEST:

Wesley M. Barker, Town Clerk

Josh Harrold, Town Manager



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Jessica Trotman, *Planning Director* **MEETING DATE:** March 11, 2024

AGENDA SECTION: RESOLUTION **DEPARTMENT:** Planning

TITLE OF ITEM: Resolution to apply for the Passive Recreation Lands Grant for Construction of the Ridgecrest Connector Trail Multi-Use Path

SUGGESTED MOTION(S):

To approve the resolution to apply through the Buncombe County Open Space Bond Passive Recreation Lands Grant for construction of the Ridgecrest Connector Trail multi-use path.

SUMMARY:

The Buncombe County Open Space Bond was approved by voters in November 2022 to help preserve open spaces and offer passive recreation. The Town seeks funding from this grant for the construction of the Ridgecrest Connector Trail multi-use path, which is called for in the Greenway Master Plan. The area of the multi-use path does not currently have any active transportation opportunities and the goal is to have the path designated as part of the Fonta Flora State Trail. The feasibility study has been completed.

This grant does not require matching funds, but the Town would like to offer in-kind match for the grant.

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 PURSUE A PASSIVE RECREATION LANDS
GRANT THROUGH BUNCOMBE COUNTY OPEN SPACE BOND**

WHEREAS, in November 2022, Buncombe County voters approved an Open Space Bond; and

WHEREAS, the Open Space Bond is a funding project that will increase conservation of lands, construction of greenways, and development of passive recreation lands; and

WHEREAS, the goals of the Open Space Bond are to preserve the natural beauty of Buncombe County, increase the quality of life for its residents, and improve access to recreational activities in the area; and

WHEREAS, the Town of Black Mountain will apply for a Passive Recreation Lands grant through the Buncombe County Open Space Bond for the construction of the Ridgecrest Connector Trail multi-use path.

NOW THEREFORE, BE IT RESOLVED that the Black Mountain Town Council bless Town staff to apply for funding through the Buncombe County Open Space Bond for construction of the Ridgecrest Connector Trail multi-use path.

I move and adopt the foregoing resolution:

Council Member

READ, APPROVED AND ADOPTED, by a vote of _____ to _____ on this 11th day of March 2024.

C. Michael Sobol, Mayor

ATTEST:

Wesley M. Barker, Town Clerk

Josh Harrold, Town Manager



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Jessica Trotman, *Planning Director* **MEETING DATE:** March 11, 2024

AGENDA SECTION: RESOLUTION **DEPARTMENT:** Planning

TITLE OF ITEM: Resolution to apply for the NCDOT IMD Multimodal Planning Grant for a Comprehensive Bicycle and Pedestrian Plan

SUGGESTED MOTION(S):

To approve the resolution to apply through the NCDOT IMD Multimodal Planning Grant for a comprehensive bicycle and pedestrian plan.

SUMMARY:

The Town currently has multiple pedestrian and bicycle plans that are over five years old and there have been multiple changes in the conditions of the areas described in the plans. The NCDOT IMD Multimodal Planning Grant offers funding for an update to existing plans and the Town would like to update and combine these plans into one comprehensive plan. The estimated cost of the project is \$60,000, meaning the Town's match would be \$6,000. NCDOT will administer this grant and there are no procurement requirements.

This grant is a 90/10 split, meaning the Town would be responsible for 10%. The funding is provided by the North Carolina Department of Transportation.

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 PURSUE A BICYCLE AND PEDESTRIAN PLAN
GRANT THROUGH NCDOT IMD MULTIMODAL PLANNING
GRANT PROGRAM**

WHEREAS, the NCDOT has an annual matching grant program to encourage municipalities to develop comprehensive bicycle and pedestrian plans; and

WHEREAS, the NCDOT has awarded approximately \$8 million since 2004 to 248 municipalities across the state; and

WHEREAS, the IMD Multimodal Planning Grant allows any North Carolina Municipality to apply for a comprehensive bicycle and pedestrian plan; and

WHEREAS, the Town of Black Mountain will apply for a comprehensive bicycle and pedestrian plan to combine the existing pedestrian, bicycle, and transportation plans into one plan.

NOW THEREFORE, BE IT RESOLVED that the Black Mountain Town Council bless Town staff to apply for funding through the IMD Multimodal Planning Grant Program for a comprehensive bicycle and pedestrian plan.

I move and adopt the foregoing resolution:

Council Member

READ, APPROVED AND ADOPTED, by a vote of _____ to _____ on this 11th day of March 2024.

C. Michael Sobol, Mayor

ATTEST:

Wesley M. Barker, Town Clerk

Josh Harrold, Town Manager



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Angela Reece, MPA, MMC, NCCMC, **MEETING DATE:** March 11, 2024
Project & Facilities Manager

AGENDA SECTION: CONSENT

DEPARTMENT: ADMINISTRATION

TITLE OF ITEM: Approval of a Resolution Authorizing the Use of the Design/Build Delivery Method for the Cragmont Park Renovation Project

SUGGESTED MOTION(S): *I move that Town Council of the Town of Black Mountain authorize the use of the design-build method for the Cragmont Park Renovation Project pursuant to § 143-128.1A.*

SUMMARY:

Based on the Town's written criteria for use of the design-build delivery method, staff are recommending the use of the design-build delivery method for design and construction renovations for the Cragmont Park Renovation Project. Public Park design and construction is a specialty and, due to the constraints of the site, timeline for completion, and type of construction and permitting, staff believe that utilizing this method would ensure a better, more cost-efficient project.

ATTACHMENTS:

- i. Proposed Resolution

**RESOLUTION BY THE TOWN OF BLACK MOUNTAIN TOWN COUNCIL
AUTHORIZING THE USE OF DESIGN-DESIGN BUILD DELIVERY METHOD
FOR THE CRAGMONT PARK RENNOVATION PROJECT**

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 Resolution R-24-03 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 has allocated \$492,000 in the FY23-24 Budget for this Project; and

WHEREAS, the Town intends to use these monies to enter into agreements to design, construct, repair, rehabilitate, or replace existing park amenities in order to provide users with high quality of life standards that include health and wellness benefits, the opportunity for leisure, and the ability to connect with other people and the surrounding natural resources; and

WHEREAS, North Carolina General Statute § 143-64.31, gives minimum requirements for procurement, with Article 3D addressing 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 Cragmont Park Renovation Project pursuant to N.C. Gen. Stat. § 143-128.1A, to construct, repair, rehabilitate, or replace existing park amenities in order to provide users with high quality of life standards that include health and wellness benefits, the opportunity for leisure, and the ability to connect with other people and the surrounding natural resources. The project site encompasses two (2) adjoining parcels of land totaling 5.14 acres along Swannanoa Avenue as further described below. Both parcels are bordered or bisected by Tomahawk Branch. The sites were identified in the Town's Recreation Master Plan Update (2023) as requiring intense development with 50% of the site remaining undisturbed to serve as a buffer between the park and adjacent property owners. Both parcels have access to water and sanitary sewer lines and are located within the FEMA floodplain and floodway. Consideration should be given for potential flooding impacts and any potential future streambank stabilization projects impacting this area. **A project area map and initial design concept is attached to this resolution as Exhibit A.**

1. The Town wishes to construct, repair, rehabilitate, or replace existing park amenities in order to provide users with high quality of life standards that include health and wellness benefits, the opportunity for leisure, and the ability to connect with other people and the surrounding natural resources along approximately 1,200 linear-foot area of the Tomahawk Branch.
2. The project funding has been secured in the FY23-24 Budget but ever-increasing construction costs require an expedited project schedule with guaranteed maximum pricing; therefore, the timeline is an important factor in being good stewards of taxpayer dollars.
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 Council.
4. The Town has previously engaged a seasoned landscape designer who provided an initial concept plan for use in expediting this project. The concept did not include a full design with pricing value engineering options.
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 improvements, 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, repair, rehabilitation, or replacement existing park amenities for the Cragmont Park Renovation Project for the following reasons:

- a. The design and construction of public park facilities is a highly specialized industry, with limited availability of qualified 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 park amenities in order to provide users with high quality of life standards that include health and wellness benefits, the opportunity for leisure, and the ability to connect with other people and the surrounding natural resources along approximately 1,200 linear-foot area of the Tomahawk Branch.
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

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 Council Member _____, the foregoing resolution was adopted this 11th day of March 2024.

ATTEST:

C. Michael Sobol, Mayor

Wesley Barker, Town Clerk

APPROVED AS TO FORM:

Town Attorney

Cragmont Park

EXHIBIT A- MAP

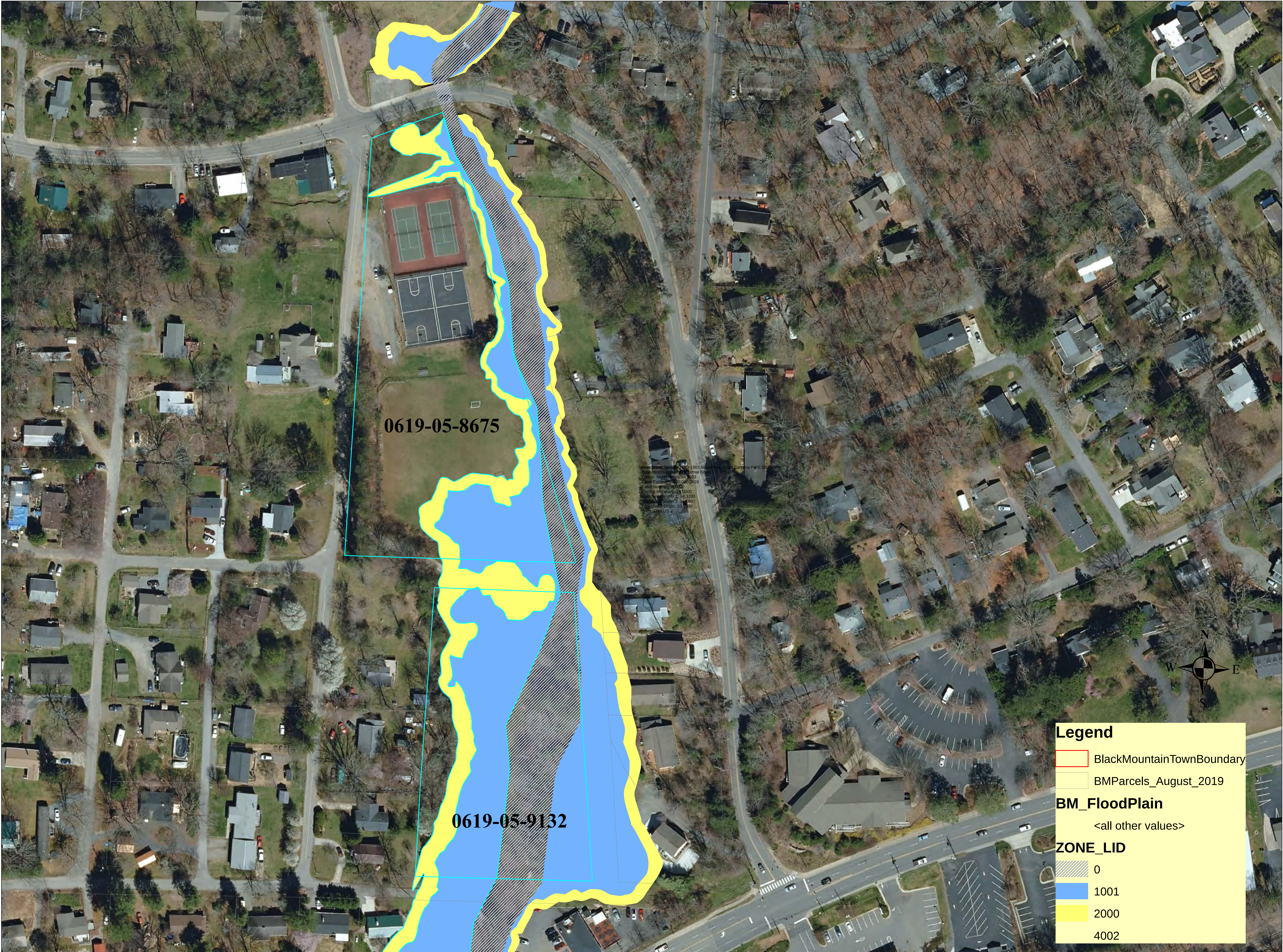


EXHIBIT A- DRAFT CONCEPT

EXISTING
TENNIS

NEW PROPOSED
TREES

NEW
SIGN

NEW
HEDGES

EXISTING
BASKETBALL

15 NEW PARKING
SPACES
60° PARKING

NEW PUBLIC
RESTROOMS

NEW PICKLEBALL
COURTS
(2 IN BUDGET)

NEW
GROUND COVER

NEW
SIGNAGE

WIDEN NEW
ENTRY TO
NEW PARKING

EXISTING
WOODLAND

20 NEW PARKING
SPACES

OPEN GREEN SPACE

GYM
EARS

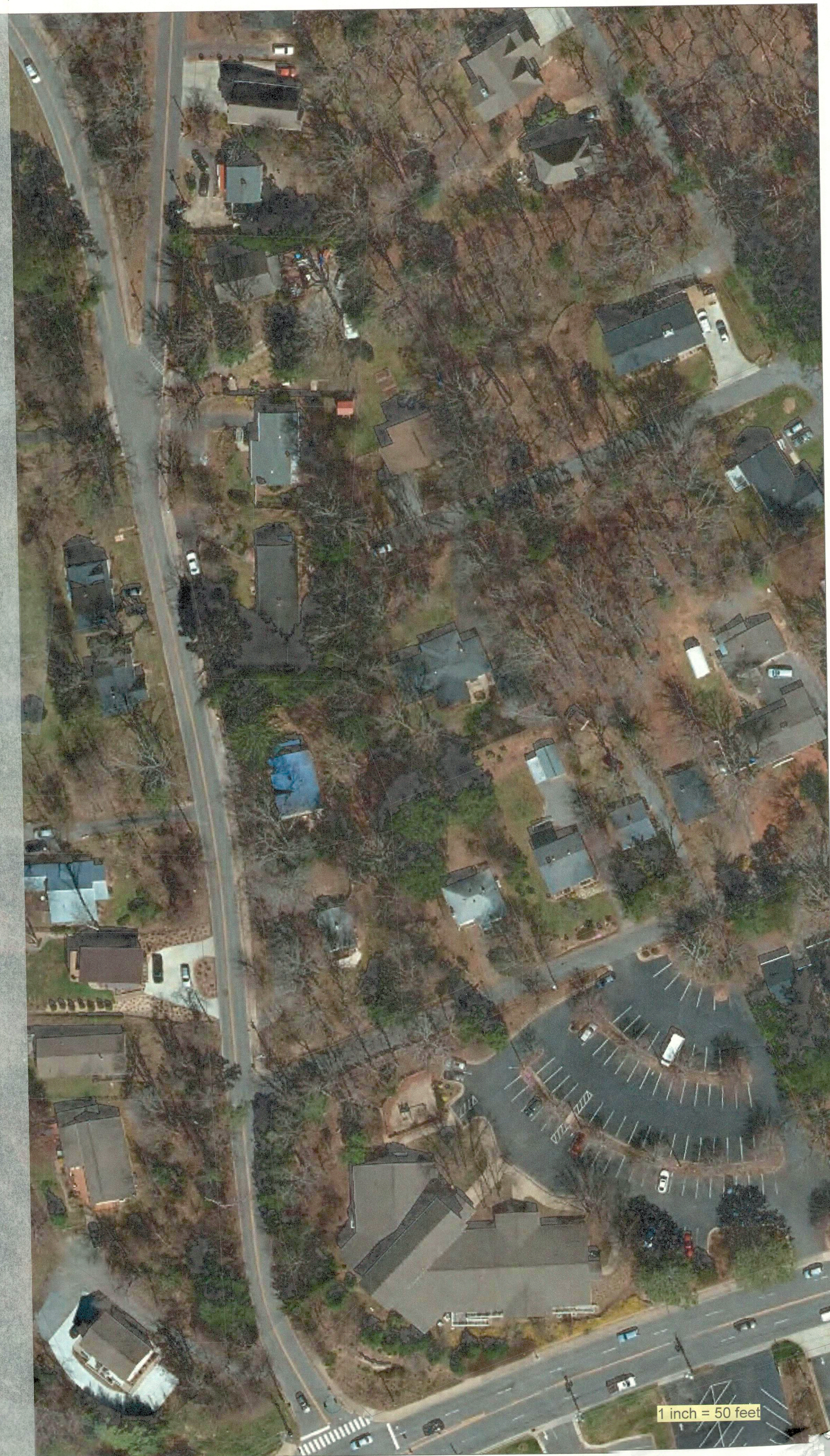
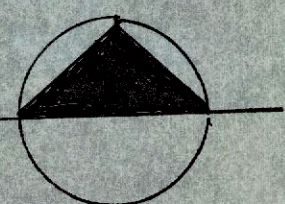
PRACTICE
SOCCER
FIELD

CLEAR
AREA
&
NEW
GRASS

CRAGMONT PARK

ROUGH CONCEPT MASTER PLAN
BLACK MOUNTAIN, NC
19 SEPTEMBER 2023

SCALE 1"=50'-0"





TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Josh Henderson, *Recreation & Parks Director* **MEETING DATE:** March 11, 2024

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

TITLE OF ITEM: GROW Trail Free Library Box at Town Square

SUGGESTED MOTION(S): Approve the item as presented.

.

SUMMARY:

In expanding the GROW Trail (a partnership with Greenways and Trails and the Black Mountain Library) a request has been made for the placement of a new free library box placed near the Splash Pad in Town Square. The library box will be painted in tasteful and colorful characters to entice the young readers.

The proposed box (photos below) marked by Steve's standing position is the proposed site location. However, we would be open to other locations in and around the Splash Pad. The library box, is financially supported by a sponsor and labor, materials and installation are strictly provided by volunteers.

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:

- Library Box Photos





TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Josh Henderson, *Recreation & Parks Director*

MEETING DATE: March 11, 2024

AGENDA SECTION: NEW BUSINESS

DEPARTMENT: Recreation & Parks

TITLE OF ITEM: Pool Pay Rate and Fee Schedule Increases

SUGGESTED MOTION(S): Approve the rates as presented.

.

SUMMARY:

As a result of the pool season starting before a new fiscal year begins there is a need to amend pool employee salaries and fee schedule increases before incorporating them into a new budget cycle for approval.

We are seeking to increase pool salaries according to the documentation provided. These increases are necessary to attract applicants for seasonal pool positions in order to staff and run the pool effectively. As noted in the documentation, there are comparisons of other related positions in our area and these increases help keep us within the market.

The proposed fee schedule amendments included in the documentation are a result of increasing inflation and costs of goods and services that are needed to operate the pool. These increases help to offset some of the cost of the proposed employee salary increases as well as the growing increase of costs for chemicals, maintenance, and pool upkeep.

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:

- 2024 Proposed Pay Rate Increases
- 2024 Proposed Fee Schedule Increases

2024 Pool Pay-Rate Increases

Manager: \$19.04hr => \$20.50hr

- YMCA: \$21hr
- YWCA: \$23.25hr
- Swim Club Management: \$22hr

Asst Manager: \$14.50hr => \$16.50hr

- YMCA: \$16.59hr
- Swim Club Management: \$18hr

Senior/Head LG: \$13hr => \$15.50hr

- YMCA: \$15.50hr
- Swim Club Management: \$16.50hr

LG: \$12hr => \$14hr

- YMCA: \$13.50hr
- YWCA: \$16.45hr
- Elida Home: \$15hr
- Raquet Club: \$14hr
- Swim Club Management: \$15hr

Pool Fee Schedule Increases

FY 23-24

Daily Admission

- Resident: \$4
- Non-Res: \$5

Multiple Visit Pass (10 visits)

- Resident: \$30
- Non-Res: \$40

Season Pass

- Individual
 - Resident: \$85
 - Non-Res: \$105
- Family:
 - Resident: \$160
 - Non-Res: \$180
 - Additional Members: \$25 each

Group Passes

11-19 Persons

- 1x visit: \$75
- 3x visit: \$150
- Unlimited: \$500

20-40 Persons

- 1x visit: \$135
- 3x visit: \$275
- Unlimited: \$950

Employee Pass

- Individual: \$30
- Family: \$40
- Family members over 5: \$20 each

FY 24-25

Daily Admission

- Resident: \$5
- Non-Res: \$6

Multiple Visit Pass (10 visits)

- Resident: \$40
- Non-Res: \$50

Season Pass

- Individual
 - Resident: \$100
 - Non-Res: \$120
- Family
 - Resident: \$180
 - Non-Res: \$200
 - Additional Members: \$30 each

Group Passes

11-19 Persons

- 1x visit: \$95
- 3x visit: \$170
- Unlimited: \$540

20-40 Persons

- 1x visit: \$150
- 3x visit: \$300
- Unlimited: \$975

Employee Pass

- Individual: \$40
- Family: \$50
- Family members over 5: \$25 each



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Josh Henderson, *Recreation & Parks Director*

MEETING DATE: March 11, 2024

AGENDA SECTION: NEW BUSINESS

DEPARTMENT: Recreation & Parks

TITLE OF ITEM: Summer Camp Staff Pay Rate and Hour Increases

SUGGESTED MOTION(S): Approve the rates as presented.

.

SUMMARY:

Due to wage increases around Western North Carolina, in the childcare industry, summer camps and childcare facilities have increased their wages to between \$17.00 - \$22.00 an hour. In the past, we have had a difficult time finding qualified, experienced, summer camp counselor applicants that want to work for less than average pay and below living wage. It is important for our summer camp to retain the reputation of hiring the best camp counselors in our area and to do that, we request to have our hourly rate increased from \$15.00 an hour to \$17.00 and hour.

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:

- 2024 Proposed Increases

2024 Summer Camp Staff Pay-Rate and Hour Increases

Summer Camp Counselor: \$15hr => \$17hr

- YMCA: \$15-17hr, plus a \$400 retention bonus
- WNC Nature Center: \$17hr
- Discovery Camp @NC Arboretum: \$16hr
- Kid Quest in Blk Mtn: \$16.50-18hr depending on experience

Additional Hours Needed: 480 (2023) => 960



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Josh Harrold, *Town Manager* **MEETING DATE:** March 11, 2024

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

TITLE OF ITEM: 204 Portmanvilla Rd Lien Release – *Josh Harrold, Town Manager*

SUGGESTED MOTION(S):

SUMMARY: In May 2016 a contract was awarded to a contractor to demolish a dilapidated structure located at 204 Portmanvilla Road. There is a lien on the property however, there is no dollar amount for the lien. Considering the amount of time lapsed, staff has been unable to locate any costs associated with this demolition. The property owner's caregiver is asking for the lien to be released.

BUDGET IMPACT: n/a

Is this expenditure approved in the current fiscal year budget? n/a

If no, describe how it will be funded. n/a

ATTACHMENTS: none



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Angela Reece, MPA, MMC, NCCMC, **MEETING DATE:** March 11, 2024
Project & Facilities Manager

AGENDA SECTION: NEW BUSINESS

DEPARTMENT: ADMINISTRATION

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

SUGGESTED MOTION(S): *I move that Town Council approve the Resolution to select **HGS, LLC T/A RES Environmental Operation Company, LLC** (Contractor) as lowest responsive, responsible bidder and to enter into an agreement to provide construction repair services for the Veterans Park Streambank Restoration Repair Project as presented.*

SUMMARY:

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

Governor Roy Cooper declared a State of Emergency on August 18, 2021, and subsequently President Joseph R. Biden Jr. approved North Carolina's disaster declaration on September 8, 2021. The Town applied for and has been awarded disaster recovery funding in the amount of \$163,950.00 for Tropical Storm Fred damages through the Federal Emergency Management Agency (FEMA). The Project Manager was successful in negotiating additional funding from the NC Department of Public Safety through the Unmet Needs Program in the amount *not to exceed \$300,000.00 for two town projects receiving Tropical Storm Fred funding assistance. (*A portion of the total Unmet Needs funding has been allocated to reimburse the Town for the restoration of the cart path bridge at the Golf Course as a result of this disaster in the amount of \$ 14,041.86.)

The total allocated grant funds from all sources for the restoration of the Veterans Park Stream will be **\$453,958.14** which includes \$168,000 FEMA funds and \$285,958.14 left in the Unmet Needs funding after deducting \$14,041.86 of the total \$300,000 award for the Golf Course Cart Bridge repair. **There is no match required of the town for this project due to it being a federally declared disaster.**

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

The town previously selected Kimley-Horn and Associates, Inc as the Project Engineering Firm and they have obtained design and other approvals to begin repairs. Kimley-Horn’s Project Engineer has also assisted the Town with Construction Administration Services and together we issued an informal construction RFP on January 25, 2024, with responses originally being due on February 28, 2024. Subsequent required advertising timeframes and materials questions necessitated an extension of the bid due date to March 1, 2024. The Town and received 6 informal bids on March 1, 2024, at 3:00 p.m. as follows:

• Baker Grading & Landscaping	Base Bid \$68,110.75	Total Bid\$74,921.83
• <u>HGS, LLC</u>	<u>Base Bid \$189,712.34</u>	<u>Total Bid \$208,683.57</u>
• KBS Earthworks	Base Bid \$207,437.65	Total Bid \$228,181.42
• South Core	Base Bid \$211,510.00	Total Bid \$232,661.00
• North State Environmental	Base Bid \$233,478.00	Total Bid \$256,825.00
• Land Mechanic Designs	Base Bid \$279,340.00	Total Bid \$\$307,274.00

Formal bids were reviewed by the Project Engineer and Town Project Manager for completeness and accuracy. **HGS, LLC T/A RES Environmental Operation Company, LLC** was the lowest responsive, responsible bidder in the total bid amount of **\$208,683.57**. The Project Engineer and Project Manager recommend awarding the contract to this contractor to perform necessary repairs in accordance with state and federal rules and regulations.

When evaluating bids, federal agencies are required to consider various factors beyond just the bid price. These factors may include the bidder's past performance, technical capability, compliance with specifications, and the overall suitability of the bid for meeting the project's requirements. This ensures that the selected bidder is not only offering the lowest price but is also capable of delivering the required goods or services effectively and efficiently.

In the case of Baker Grading & Landscaping's bid, the Project Engineer and Town’s Project Manager found that it did not meet the criteria for responsiveness or responsibility based on the following reasons:

1. Prior estimates for original repairs: The estimates provided by Baker Grading & Landscaping did not align with the original repair estimates, raising concerns about the accuracy of their bid.
2. Town’s independent cost estimates: Upon comparison with our own independent cost estimates, it became apparent that Baker Grading & Landscaping's bid was significantly lower than anticipated, leading to doubts about the feasibility of their proposal.
3. Engineer’s probable construction costs for repairs: The engineer's assessment of the probable construction costs for the repairs indicated discrepancies between Baker Grading & Landscaping's bid and the expected costs, prompting further scrutiny.

4. Concerns regarding the contractor's ability to perform: Black Mountain had reservations about Baker Grading & Landscaping's capacity to effectively execute the project, considering the significant disparity between their bid and the estimated costs.

The attached resolution is for the Town Council to consider approving a contract for these services for the Veterans Park Streambank Restoration - FEMA # 4617-NC- FEMA PROJECT # 436912- EM Grant #75-436912.

ATTACHMENTS:

- i. Resolution by The Town Council of The Town of Black Mountain to Enter into A Contract for Construction Services for the Veterans Park Streambank Restoration -FEMA Project # 436912

BID/ACCEPTANCE FORM

for

Veterans Park Streambank Restoration

Streambank and in-channel repairs to address damage from Tropical Storm Fred.

10 Veterans Park Drive, Black Mountain, NC 28711

The undersigned, as bidder, proposes and agrees if this bid is accepted to contract with the Town of Black Mountain, NC for the furnishing of all materials, equipment, and labor necessary to complete the construction of the work described in these documents in full and complete accordance with plans, specifications, and contract documents, and to the full and entire satisfaction of the *Town of Black Mountain* for the sum of:

One Hundred Eighty Nine Thousand Seven

BASE BID: Hundred Twelve Dollars and Thirty Four Cents **Dollars \$ 189,712.34**

Respectively submitted this 1st day of March 2024

HGS, LLC T/A RES Environmental Operating Company, LLC

(Contractor's Name)

Federal ID#: 54-1968018

By: James Poe

Witness: _____

Title: Client Solutions Manager

James Poe

(Owner, partner, corp. Pres. Or Vice President)

Address: 3600 Glenwood Avenue, Suite 100
Raleigh, NC 27612

(Proprietorship or Partnership)

Attest: (corporation)

Email Address: jpoe@res.us

(Corporate Seal)



By: Daniel M. Minter

License #: 65098

Title: Operations Manager

(Corporation, Secretary, Assistant Secretary)

Identification of HUB Certified/ Minority Business Participation

I, HGS, LLC T/A RES Environmental Operating Company, LLC

(Name of Bidder)

do hereby certify that on this project, we will use the following HUB Certified/ minority business as construction subcontractors, vendors, suppliers or providers of professional services.

Firm Name, Address and Phone #	Work Type	*Minority Category	**HUB Certified (Y/N)
Habitat Assessment and Restoration Professionals 704-841-2841	Planting	F	Y
301 McCullough Dr. Suite 400 Charlotte, NC 28262			
McCraw Trucking, Inc 276-755-2159	Hauling	F	N
2108 Brushy Fork Road, Cana, VA 24317			

*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.

The total value of minority business contracting will be (\$) 19,340.00.

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

County of Forsyth

(Name of Bidder)

Affidavit of HGS, LLC T/A RES Environmental Operating Company, LLC

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.

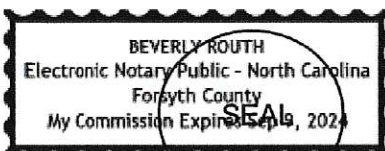
The undersigned, if apparent low bidder, will enter into a formal agreement with the firms listed in the Identification of Minority Business Participation schedule conditional upon scope of contract to be executed with the Owner. Substitution of contractors must be in accordance with GS143-128.2(d) Failure 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: 2/26/2024 Name of Authorized Officer: James Poe

Signature: _____

Title: Client Solutions Manager



State of North Carolina, County of Forsyth

Subscribed and sworn to before me this 26th day of February 2024

Notary Public Beverly Routh

My commission expires 9-9-24

PROOF OF PUBLICATION

Attn Accounts Payable
Town Of Black Mountain
160 Midland Ave
Black Mountain NC 28711-3112

STATE OF WISCONSIN, COUNTY OF BROWN

Before the undersigned, a Notary Public, duly
commissioned, qualified and authorized by law to
administer oaths, personally appeared said legal clerk, who,
being first duly sworn, deposes and says: that he/she is the
legal clerk of The Asheville Citizen-Times, engaged in
publication of a newspaper known as The Asheville Citizen-
Times, published, issued and entered as first class mail in
the city of Asheville, in Buncombe County, State of North
Carolina; that he/she is authorized to make this affidavit
and sworn statement; that the notice or other legal
advertisement, a true copy of which is attached here to,
was published in said newspaper in the issues dated:

02/15/2024

That said newspaper in which said notice, paper, document
or legal advertisement was published was, at the time of
each and every publication, a newspaper meeting all the
requirements and qualifications of Section 1-597 of the
General Statutes of North Carolina and was a qualified
newspaper within the meaning of Section 1-597 of the
General Statutes of North Carolina.

Sworn to and subscribed before on 02/15/2024

Legal Clerk

Notary, State of WI, County of Brown

My commission expires

Publication Cost: \$294.74

Order No: 9849081

of Copies:

Customer No: 948801

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PO #: LGSC0061379

THIS IS NOT AN INVOICE!

Please do not use this form for payment remittance.

VICKY FELTY
Notary Public
State of Wisconsin

**VETERANS PARK
STREAMBANK RESTORA-
TION REPAIRS BID**

The Town of Black Mountain is seeking qualified and competent contractors to perform stream bank and in-channel construction to repair damage that occurred to the previously constructed stream restoration project during Tropical Storm Fred. The project is partially funded by a FEMA Public Assistance and an unmet needs grant from the NC Department of Public Safety, Emergency Management Division to restore the project to pre-disaster condition. The project also includes lowering a portion of a greenway trail to remove the berm within the floodplain. Veterans Park is located at 10 Veterans Park Drive, Black Mountain, North Carolina, 28711, Buncombe County PIN # 060983208700000.

PLEASE NOTE: The Bid Solicitation is being posted on the Town's website at www.townofblackmountain.org It will also be advertised on the NC Department of Historically Underutilized Business's HUB website, and other publications. ANY COMMUNICATIONS AND ADDENDA WILL ONLY BE ISSUED BY THE PROJECT ENGINEER, JASON CLAUDIO DIAZ, P.E., CFM. FAILURE TO COMPLY WITH THE TERMS OF AN ADDENDA MAY DISQUALIFY A PROPOSER FROM CONSIDERATION.

The Town of Black Mountain reserves the right to reject any and all Bids and to decline to award a contract for these services. The Town will bear no responsibility for costs incurred in preparation of responses to this Bid. Prior to the submission deadline, questions regarding this Request for Qualifications may be directed to the following address.

Project Engineer:
Jason Claudio-Diaz, P.E.,
CFM
Jason.Diaz@Kimley-Horn.
com
Kimley-Horn and Associates, Inc.
200 South Tryon Street, Suite
200
Charlotte, NC 28202
704.954.7464

PROJECT:
Veterans Park Streambank
Restoration & Repairs

LOCATION:
10 Veterans Park Dr.,
Buncombe County, North
Carolina
Responses for the services specified will be received by the Town of Black Mountain at the specified location listed in this RFP document, until the date and time cited. Responses received by the correct time shall be considered. Responses received after the due date and time will not be considered.

**P R O C U R E M E N T
WEBSITE:**
To view or download the RFQ/P for this project, go to the website listed below:
Town of Black Mountain
Bidding Opportunities:
<https://www.townofblackmountain.org/Bids.aspx>.

**BID DUE DATE AND
TIME:**
Respondent's Sealed Bid shall be submitted and received by the Town no later than: February 28, 2024, 3:00 p.m.
Official time will be Eastern Standard Time (EST (UTC-5)) as kept by the National Institute of Standards & Technology: <https://time.gov/>.

Responses submitted via US Postal Service, FedEx, UPS, or Hand Delivery

Town of Black Mountain
160 Midland Ave.
Black Mountain, NC 28711
Attn: Angela Reece, MPA,
Project Manager

**Electronic (email) or facsimile submissions will not be accepted.
February 15 2024
LGSC0061379

NC DOA HUB Solicitation Opportunities

Select a report filter:

Solicitation Due Date

Solicitation Type

Disaster Related

Organization

Project Location

Opportunity Report

Select a Solicitation Type

All

Select a Project

- ☐ #10293 273-2524-700-DON_Demo_Habitat - 273-2524-700-DON_Demo_Habitat
- ☐ #10296 447-CDBG-20-V-3514 - Graham County Senior Center Kitchen Expans...
- ☒ #10302 Veterans Park Streambank Restoration Repairs - TS Fred
- ☐ #10304 287-22-25943-02 - East Carolina University - Construction Bids
- ☐ #10307 Cooper Academy Additions and Renovations
- ☐ #9184 298-298-MRWTPRehabPh2 - 298-MRWTPRehabPh2 Mills River WTP ...

Show Opportunity

Clear All

Solicitation Information

Due Date: 2/28/2024
Due Time: 3:00PM
Type: Construction
Organization: Town of Black Mountain

Project Information

Project Title: #10302 Veterans Park Streambank Restoration Repairs - TS Fred
Is this Disaster Related (Preparation, Response, or Recovery)? Yes
Project Location Address:
10 Veterans Park Dr., Black Mountain, North Carolina 28711
Project Info URL: [The Bid and related documents may be viewed here:](#)

Pre-Solicitation Meeting Information

Is there a meeting? No

Submission Details

Date: 2/28/2024
Time: 3:00PM
Meeting Type:
Virtual Meeting Info:
Onsite Address: 160 Midland Ave.
Black Mountain, North Carolina 28711

Scope of Work

This project intends to perform stream bank and in-channel construction to repair damage that occurred to the previously constructed stream restoration project during Tropical Storm Fred. The project is partially funded by a FEMA Public Assistance and an unmet needs grant from the NC Department of Public Safety, Emergency Management Division to restore the project to pre-disaster condition. The project also includes lowering a portion of a greenway trail to remove the berm within the floodplain.

Project Contact Information

Name: Jason Claudio-Diaz
Phone Number: 704-954-7464
Email: Jason.Diaz@Kimley-Horn.com
Website: [The Bid and related documents may be viewed here:](#)
<https://www.townofblackmountain.org/Bids/BidID=39> [The project page may be viewed here:](#)

RESOLUTION BY THE TOWN OF BLACK MOUNTAIN TOWN COUNCIL TO ENTER INTO A CONTRACT FOR CONSTRUCTION SERVICES FOR THE VETERANS PARK STREAMBANK RESTORATION REPAIR -FEMA PROJECT # 436912

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

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

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

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

WHEREAS formal bids were reviewed by the Project Engineer and Town Project Manager for completeness and accuracy. **HGS, LLC T/A RES Environmental Operation Company, LLC** (Contractor) was the lowest responsive, responsible bidder in the total bid amount of **\$208,683.57**; and

WHEREAS, the Project Engineer and Town Project Manager are recommending the award of the Veterans Park Streambank Restoration Construction Repairs Project to **HGS, LLC T/A RES Environmental Operation Company, LLC** (Contractor).

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

1. The bid for the Veterans Park Streambank Restoration Repair Project is awarded to **HGS, LLC T/A RES Environmental Operation Company, LLC** (Contractor), who is determined to be the lowest responsive, responsible bidder.
2. The Town Manager is authorized to execute a contract for construction repairs for the Veterans Park Streambank Restoration Repair Project to **HGS, LLC T/A RES Environmental Operation Company, LLC** (Contractor), the lowest responsive, responsible bidder in the total amount of **\$208,683.57**.
3. The Town Manager is authorized to approve change orders which cumulatively do not exceed 10% of the approved base contract amount of **\$189,712.34**, provided however that any necessary budget ordinance or project ordinance amendments must be brought back to the Town Council for approval.

Adopted by the Town Council of the Town of Black Mountain, North Carolina on this 11th day of March 2024.

ATTEST:

C. Michael Sobol, Mayor

Wesley M. Barker, Town Clerk

Josh Harrold, Town Manager



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Angela Reece, MPA, MMC, NCCMC, **MEETING DATE:** March 11, 2024
Project & Facilities Manager

AGENDA SECTION: NEW BUSINESS

DEPARTMENT: ADMINISTRATION

TITLE OF ITEM: Resolution(s) to Accept Grant Funding from The North Carolina Department of Environmental Quality and to Approve an Agreement for Professional Design-Build Services for the Black Mountain Swannanoa River Floodbench & Constructed Wetlands Project-SRP-SW-ARP-0026– *Angela L. Reece, Project & Facilities Manager*

SUGGESTED MOTION(S): *I move that Town Council approve the Resolution to Accept Funding from The North Carolina Department of Environmental Quality in the amount of \$5,000,000, **and** the Resolution to Approve the Agreement With _____ (selected firm) to Provide Design Build Services For The Black Mountain Swannanoa River Floodbench & Constructed Wetlands Project-SRP-SW-ARP-0026 as presented.*

SUMMARY:

The Town applied for a Stormwater Planning Grant through the State Water Infrastructure Authority (SWIA) and has received notification advising the project is authorized to receive American Rescue Plan Act (ARPA) funding, provided from the State Fiscal Recovery Fund.

(SFRF), as established in Session Law (S.L.) 2021-180 eligible to receive a grant funding through the Local Assistance for Stormwater Infrastructure Investments (LASII) from the American Rescue Plan Act (ARPA) which will be one hundred percent (100%) of eligible project costs up to a maximum of \$5,000,000.00. Projects funded by ARPA must meet applicable federal law and guidance for the ARPA funds.

This grant will allow the Town to construct/rehabilitate a wastewater treatment/collection system associated with designing and constructing floodplain benches and creating floodplain wetlands to mitigate flooding and help reduce erosive forces and runoff during frequent flood events at two sites along a roughly 3300-linear-foot reach of the Swannanoa River. The proposed Project will reduce flood risks and address water quality issues downstream and is NOT to repair or improve transportation infrastructure. The project sites identified will address both water quality and water quantity issues that impact the Swannanoa River, its tributaries, and any impediments to NPDES compliance.

To initiate the project Council must first accept the offer of LASII ARPA grant funding from North Carolina Department of Environmental Quality (NCDEQ) in the amount of \$5,000,000.00 and then select a Design-Build firm to develop a final scope of work and design compliant with NCDEQ standards. The selected firm will also acquire proper permitting, easements if required, and proceed with construction as directed by NCDEQ.

The Project Manager has performed a qualifications-based selection with pricing and review process and has recommended _____ as being the most advantageous firm for the Council's consideration for a design-build services contract award for this project.

Due to the nature of the project and milestone requirements by NCDEQ the final scope of work will need to be properly developed by the selected engineering firm in accordance with grant funding guidelines. The proposed resolution will approve selection of the design-build firm and will authorize the Town Manager to negotiate an initial and final scope of work and fee that will not exceed \$5,000,000.00.

ATTACHMENTS:

1. Resolution by The Town of Black Mountain Town Council to Accept Funding From The North Carolina Department Of Environmental Quality For The Swannanoa River Floodbench & Constructed Wetlands Project SRP-SW-ARP-0026

- a. Project Funding Offer Award Letter
- b. Contract

2. Resolution by the Town of Black Mountain Town Council Approving Agreement With _____ For Design-Build Services for The Black Mountain Swannanoa River Floodbench & Constructed Wetlands Project SRP-SW-ARP-0026.

- a. Design-Build Services Agreement

ROY COOPER
Governor

ELIZABETH S. BISER
Secretary

SHADI ESKAF
Director



February 21, 2024

Josh Harrold, Town Manager
Town of Black Mountain
160 Midland Avenue
Black Mountain, North Carolina 28711

SUBJECT: ARPA Funding Offer
Project No. SRP-SW-ARP-0026
Black Mountain North Bank Swannanoa
River Floodbench Project

Dear Mr. Harrold:

The Town of Black Mountain has been approved for funding assistance according to the subject funding offer. This offer is made subject to the Conditions and Assurances set forth in the Offer and Acceptance Document.

To ensure the American Rescue Plan Act (ARPA) funds are expended before the federal deadline of December 2026, the Division is requiring execution and return of the enclosed Offer and Acceptance for ARPA Funding agreement **no later than October 31, 2024**. All project documents including this Offer and Acceptance are to be submitted via Laserfiche at the following link: <https://edocs.deq.nc.gov/Forms/DW-Document-Upload-Form>.

Upon your acceptance, please also submit the following items to the Division, via email at DEQ.DWI.FundingOffer@deq.nc.gov:

1. One (1) copy of the original Offer and Acceptance Document executed by the Authorized Representative for the project, along with the Conditions and Assurances. **Retain the other copy for your files.**
2. A resolution adopted by the governing body accepting the funding offer and making the applicable Conditions and Assurances contained therein. (Sample copy attached)
3. Federal Identification Number and Unique Entity ID Number of the Recipient (UEID required for federally funded projects)
4. Sales-Tax Certification (attached)



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

5. Professional Engineering Services Procurement Form

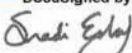
The Site Certification, a Capital Project Ordinance (or budget ordinance covering the project), and the Professional Engineering Services Procurement Form (not applicable for DWSRF projects) are due before disbursements begin.

Disbursement requests and other project documents are to be submitted via the Laserfiche link provided above. A reference copy of the Disbursement Request Form (also found on the DWI website) has been enclosed for your convenience. All ARPA funding disbursements must be processed **prior to December 31, 2026**.

Attached is the "Water Infrastructure Grants Legal Requirements Quick Reference Guide" which further explains the ARPA funding agreement requirements.

On behalf of the Department of Environmental Quality, I am pleased to make this funding offer. Should you have any questions concerning this offer of funding, or any of the stipulations outlined in this offer package, please contact Allen Baker at allen.baker@deq.nc.gov or 910-796-7399.

Sincerely,

DocuSigned by:

6300A872077B4C5...

Shadi Eskaf, Director
Division of Water Infrastructure, NCDEQ

Enclosures: Offer and Acceptance Document (two copies)
Water Infrastructure Grants Legal Requirements Quick Reference Guide
Federal ID and UEID Number Request Memo
Resolution to Accept Funding Offer (suggested format)
Sales-Tax Certification Form
Disbursement Request Form
Professional Engineering Services Procurement Form
Site Certification
Capital Project Ordinance (Sample)

cc: Josh Harrold, (josh.harrold@tobm.org)
Amanda Whitaker, WithersRavenel, (awhitaker@withersravenel.com)
David Perry, PE, WithersRavenel, (dperry@withersravenel.com)
Mark Hubbard (Via DocuSign)
Allen Baker (Via DocuSign)
DWI Administrative Unit (Via DocuSign)
Carrie Short (Via DocuSign)
Jennifer House (Via DocuSign)
Pam Whitley (Via Email)
FILE: ARP Project File (**COM_LOX**)
Agreement ID#: 2000067297



Clean Water Act, Section 602(b)(14)	(14) a contract to be carried out using funds directly made available by a capitalization grant under this title for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or architectural related services <u>shall be negotiated in the same manner as a contract for architectural and engineering services is negotiated under chapter 11 of title 40, United States Code, or an equivalent State qualifications-based requirement (as determined by the Governor of the State).</u> From: water resources reform and development act guidance.pdf (epa.gov) <i>The requirements of 40 U.S.C. 1101 et seq. are:</i> • <i>Public announcement of the solicitation (e.g., a Request for Qualifications);</i> • <i>Evaluation and ranking of the submitted qualifications statements based on established, publicly available criteria (e.g., identified in the solicitation); o Evaluation criteria should be based on demonstrated competence and qualification for the type of professional services required (e.g., past performance, specialized experience, and technical competence in the type of work required);</i> • <i>Discussion with at least three firms to consider anticipated concepts and compare alternative methods for furnishing services;</i> • <i>Selection of at least three firms considered to be the most highly qualified to provide the services required; and</i> • <i>Contract negotiation with the most highly qualified firm to determine compensation that is fair and reasonable based on a clear understanding of the project scope, complexity, professional nature, and the estimated value of the services to be rendered;</i> ▪ <i>In the event that a contract cannot be negotiated with the most highly qualified firm, negotiation continues in order of qualification.</i>
Uniform Guidance 2 CFR 200.319(b)	Competition. The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.
NC General Statute 143-64.31	Procurement of Architectural, Engineering, and Surveying Services (NC “Mini-Brooks”) ...It is the public policy of this State... and Local Governmental Units..., to announce all requirements for architectural, engineering, surveying, construction management at risk services, design-build services,..., to select firms qualified to provide such services on the basis of demonstrated competence and qualification for the type of professional services required without regard to fee other than unit price information at this stage, and thereafter to negotiate a contract for those services at a fair and reasonable fee with the best qualified firm. If a contract cannot be negotiated with the best qualified firm, negotiations with that firm shall be terminated and initiated with the next best qualified firm. ...

NC General Statute 143-64.32	<u>NOTE: CWSRF and ARPA funding:</u> NCGS 143-64.32 cannot be used to exempt a local government unit from abiding by NCGS 143-63.31. This is because there is no minimum dollar exemption allowed in the Federal Brooks Act, the Clean Water Act Section 602(b)(14), or 2 CFR 200.319. Written exemption of particular contracts. Units of local government or the North Carolina Department of Transportation may in writing exempt particular projects from the provisions of this Article in the case of proposed projects where an estimated professional fee is in an amount less than fifty thousand dollars (\$50,000). (1987, c. 102, s. 2; 2013-401, s. 2.)
21 NCAC 56.0701(f)	SECTION .0700 – RULES OF PROFESSIONAL CONDUCT, adopted in accordance with NC General Statute 89C-20 (Board Rules for Professional Engineers, etc.) (f) A licensee shall solicit or accept work only on the basis of qualifications and: (1) Shall not offer to pay, either directly or indirectly, any commission, political contribution, gift, or other consideration in order to secure work, exclusive of securing salaried positions through employment agencies; (2) Shall compete for employment on the basis of professional qualification and competence to perform the work. The licensee shall not solicit or submit proposals for professional services containing a false, fraudulent, misleading, deceptive or unfair statement or claim regarding the cost, quality or extent of services to be rendered; (3) Shall, with regard to fee bidding on public projects, comply with the provisions of G.S. 143-64.31 et seq., (or for federal projects, the Brooks Act, 40 U.S. Code 541 et seq.) and shall not knowingly cooperate in a violation of any provision of G.S. 143-64.31 et seq. (or of 40 U.S. Code 541 et seq.); ...

NC DEQ Division of Water Infrastructure Professional Engineering Services Procurement

Section 602(b)(14) of the Clean Water Act requires projects receiving Clean Water State Revolving Fund funding to comply with engineering procurement guidelines. North Carolina Session Law 2021-180 authorizes the Division of Water Infrastructure (Division) to award grant funds from the American Rescue Plan Act (ARPA) State Fiscal Recovery Fund for drinking water, wastewater, and stormwater infrastructure projects. 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.

To comply, you must follow North Carolina General Statute 143-64.31, Article 3D Procurement of Architectural, Engineering, and Surveying Services. You cannot exempt yourself using NCGS 143-64.32. Complete and sign this form and provide the information indicated to ensure that engineering services for your project are eligible for disbursement.

Applicant: Click or tap here to enter text.

Project Name: Click or tap here to enter text.

Division Funding Number: Click or tap here to enter text.

-
- 1) List the basic services being provided: (i.e., planning, design, inspection etc.)
Click or tap here to enter text.
 - 2) Describe the method of announcement for the project.
Click or tap here to enter text.
 - 3) List the firms the announcement was discussed with or that proposals were received from in order of quality.
Click or tap here to enter text.
 - 4) Was a contract negotiated with the best qualified firm? ☐ Yes ☐ No (Check one)
If no, explain why.
Click or tap here to enter text.

NOTE: Documentation of Qualification-Based-Selection of Engineering Services shall be provided to the Division upon request (to include announcement and qualifications requested).

By signing below, I Click or tap here to enter text., the Authorized Representative designated for this project in the project application, attest that the contract pricing, as seen in the attached contract(s), contains pricing that is fair and reasonable based on scope, complexity, professional nature, and the estimated value of the services being provided and the firm selected, was selected based on their qualifications.

(signed name, title and date)

(DWI staff use only – Check and initial here if debarment status checked and firm is NOT debarred ☐ _____)

Department of Environmental Quality
Division of Water Infrastructure

**WATER INFRASTRUCTURE GRANTS
LEGAL REQUIREMENTS
QUICK REFERENCE GUIDE**



Preface

Subrecipients received funds from the North Carolina Department of Environmental Quality (DEQ) in the form of subawards, the purpose of which was to carry out a portion of NC DEQ's American Rescue Plan Act (ARPA) State Fiscal Recovery Fund (SFRF) grant program in accordance with the applicable law.

As such, Subrecipients must carry out the responsibilities of their subawards in accordance with Section 602 of the Social Security Act (as added by section 9901(a) of the American Rescue Plan Act of 2021), 31 C.F.R. Part 35 (U.S. Treasury's "Final Rule"), as well as any guidance provided by U.S. Treasury including, but not limited to, the CSLFRF Compliance and Reporting Guidance and U.S. Treasury's SLFRF Final Rule Frequently Asked Questions. Subrecipients must also comply with the applicable provisions of 2 C.F.R. Part 200 (the "Uniform Guidance"), as implemented by the U.S. Treasury under 2 C.F.R. Part 1000, and as set forth in the CSLFRF Assistance Listing 21.027.

In addition to the federal requirements for ARPA/SFRF subawards, subrecipients must also comply with applicable state laws and regulations. For the most current guidance from Treasury, please see US Department of Treasury SLFRF.

Pursuant to its responsibilities as a pass-through entity for federal financial assistance, NC DEQ created this document to serve as a quick reference guide regarding the requirements applicable to subrecipients. Subrecipients are responsible for properly complying with all applicable federal, state, and local requirements as they carry out their duties under their subawards.

<u>Requirement</u>	<u>Citation/ Document Name</u>	<u>Description</u>	<u>Location</u>
Pre-Award Costs	2 C.F.R. § 200.458	Pre-award costs as defined in 2 C.F.R. § 200.458, which includes costs incurred prior to the Federal Award Date of March 3, 2021, may not be paid with funding from this award. Per U.S. Treasury guidance, pre-project development costs that are tied to or reasonably expected to lead to an eligible capital expenditure, such as pre-project planning or engineering costs, are reimbursable under this program and not considered prohibited pre-award costs.	https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-E/subject-group-ECFRd1f39f9b3d4e72/section-200.458 https://home.treasury.gov/system/files/136/Financial-Assistance-Agreement-States-and-Territories.pdf (See term #5)
Period of Performance	U.S. Treasury CSFRF Financial Assistance Agreement – States & Territories U.S. Treasury Obligation Interim Final Rule	The period of performance for ARPA/SFRF awards begins on March 3, 2021 and ends on December 31, 2026. All ARPA/SFRF funds must be obligated by December 31, 2024, and expended by December 31, 2026. Per U.S. Treasury guidance in its 2023 Obligation Interim Final Rule, the obligation deadline does not apply to subrecipient. Subrecipients are not required to obligate their ARPA/SFRF funds by December 31, 2024, however, they are still subject to the expenditure deadline of December 31, 2026. All funds that are not expended by December 31, 2026, must be returned to U.S. Treasury.	https://home.treasury.gov/system/files/136/Financial-Assistance-Agreement-States-and-Territories.pdf (See term #2) https://home.treasury.gov/system/files/136/Obligation_Interim_Final_Rule_2023.pdf
Indirect Costs	2 C.F.R. § 200.414(f) U.S. Treasury CSFRF Financial Assistance Agreement – States & Territories	Pursuant to the terms and conditions of NC DEQ's award agreement with U.S. Treasury, subrecipients are permitted to charge both direct and indirect costs to their subaward as administrative costs. If a subrecipient has a current Negotiated Indirect Costs Rate Agreement ("NICRA") established with a Federal cognizant agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals, then they may use their current NICRA. Subrecipients who wish to use their NICRA will need to send a copy of it to NC DEQ. If a subrecipient does not have a NICRA, they may use the de minimis rate of 10 percent of the modified total direct costs pursuant to 2 C.F.R. § 200.414(f).	https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-E/subject-group-ECFRd93f2a98b1f6455/section-200.414 https://home.treasury.gov/system/files/136/Financial-Assistance-Agreement-States-and-Territories.pdf (See term #6)

Conflicts of Interest	2 C.F.R. § 200.112 2 C.F.R. § 200.318(c) N.C. Gen. Stat. § 14-234 U.S. Treasury CSFRF Financial Assistance Agreement – States & Territories	Subrecipients are required to maintain a conflict-of-interest policy consistent with 2 C.F.R. § 200.318(c) and, if applicable, N.C. Gen. Stat. § 14-234. The conflict-of-interest policy will be applicable to each activity funded under their ARPA/SFRF subaward. Subrecipients who are neither local government units nor public authorities will be required to provide a copy of their conflict-of-interest policy for management employees and their governance body to NC DEQ. Per 2 C.F.R. § 200.112, subrecipients will also need to disclose in writing to NC DEQ any potential conflicts of interest affecting the awarded funds.	https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-B/section-200.112 https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.318 https://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_14/GS_14-234.html https://home.treasury.gov/system/files/136/Financial-Assistance-Agreement-States-and-Territories.pdf (See Term #8)
Publications	U.S. Treasury CSFRF Financial Assistance Agreement – States & Territories	If a subrecipient produces a publication using funds from their ARPA subaward, they must display the following language: “This project is being (or was) supported, in whole or in part, by Coronavirus State and Local Recovery Funds, federal award SLFRP0129, awarded to the State of North Carolina by the U.S. Department of Treasury.” This requirement is contained in the terms and conditions of NC DEQ’s award agreement with U.S. Treasury.	https://home.treasury.gov/system/files/136/Financial-Assistance-Agreement-States-and-Territories.pdf (See term #13)
Maintenance of and Access to Records	U.S. Treasury CSFRF Financial Assistance Agreement – States & Territories 2 C.F.R. §§ 200.334–38	Pursuant to the terms and conditions of NC DEQ’s award agreement with U.S. Treasury and the relevant Uniform Guidance requirements, subrecipients must preserve and provide access to their programmatic and financial records related to their ARPA-funded projects, including: - records providing a full description of each activity undertaken; - records demonstrating that each activity undertaken meets the objectives of the federal program and state appropriation and related documentation; - records required to determine the allowability of costs; - records required to document the acquisition, improvement, use or disposition of real property acquired or improved with the assistance; - records documenting compliance with federal and local laws; and	https://home.treasury.gov/system/files/136/Financial-Assistance-Agreement-States-and-Territories.pdf (See term #4) https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200#subject-group-ECFR4acc10e7e3b676f

		f. financial records required by program regulations and Uniform Guidance. In accordance with the terms and conditions of NC DEQ's award agreement with U.S. Treasury, subrecipients will be required to maintain records for at least five years after all funds have been expended or returned to U.S. Treasury, whichever is longest. Subrecipients will be required to make all records, books, papers, and other documents that relate to their ARPA subaward available at all reasonable times for inspection, review, and audit by the authorized representatives of NC DEQ, the North Carolina State Auditor, U.S. Treasury, the U.S. Government Accountability Office, and any other authorized state or federal oversight office.	
Nondiscrimination	U.S. Treasury CSFRF Financial Assistance Agreement – States & Territories	Subrecipients of ARPA/SFRF funding are subject to the following laws and regulations that prohibit discrimination in federal financial assistance programs: a. Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000d), and U.S. Treasury's implementing regulations, 31 C.F.R. Part 22. b. The Fair Housing Act and Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601). c. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794). d. The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101), and U.S. Treasury's implementing regulations, 31 C.F.R. Part 23. e. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. § 12101). The above require that no person shall, on the basis of race, color, national origin (including limited English proficiency), sex (including sexual orientation and gender identity), age, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program for which subrecipients receive ARPA/SFRF funding. The above also require that subrecipients adopt and enact nondiscrimination policies consistent with those requirements.	https://home.treasury.gov/system/files/136/Financial-Assistance-Agreement-States-and-Territories.pdf (See term #9(c))

The Uniform Guidance	2 C.F.R. Part 200 2 C.F.R. Part 1000 Assistance Listing Number 21.027	Subrecipients are responsible for complying with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, as adopted by U.S. Treasury in its implementing regulations, 2 C.F.R. Part 1000, and as set forth in the SLFRF Assistance Listing (ALN 21.027). The Uniform Guidance provisions that apply to ARPA/SLFRF subawards are as follows: • Subpart A, Acronyms and Definitions • Subpart B, General Provisions • Subpart C, Pre-Federal Award Requirements and Contents of Federal Awards ◦ The following do not apply to SLFRF funds: 2 C.F.R. §§ 200.204, .205, .210, & .213 • Subpart D, Post Federal Award Requirements ◦ The following do not apply to SLFRF funds: 2 C.F.R. §§ 200.305(b)(8) & (9), .308, .309, & .320(c)(4) • Subpart E, Cost Principles • Subpart F, Audit Requirements • 2 C.F.R. Part 25 (Universal Identifier & System for Award Management) • 2 C.F.R. Part 170 (Reporting Subaward and Executive Compensation Information) • 2 C.F.R. Part 180 (Debarment and Suspension)	https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200 https://www.ecfr.gov/current/title-2/subtitle-B/chapter-X/part-1000 https://sam.gov/fal/7cecfdef62dc42729a3fdcd449bd62b8/view
Prohibition on Certain Telecommunication and Video Surveillance Services or Equipment	2 CFR § 200.216,	Pursuant to 2 C.F.R. § 200.216, subrecipients cannot obligate or expend ARPA funds to: (1) procure or obtain; (2) extend or renew a contract to procure or obtain; or (3) enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services (as described in Public Law 115-232, Section 889) as a substantial or essential component of any system, or as a critical technology as part of any system.	https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-C/section-200.216
Procurement	N.C. Gen. Stat. § 143-64.31 N.C. Gen. Stat. § 143-64.32 2 C.F.R. §§ 200.317–27	Subrecipients are subject to applicable state procurement requirements while carrying out the federal award, including N.C. Gen. Stat. § 143-64.31, Article 3D (Procurement of Architectural, Engineering, and Surveying (A/E) Services). N.C. Gen. Stat. § 143-64.32 cannot be used to exempt funding recipients from a qualification-based selection for A/E. In addition to state procurement requirements, subrecipients are subject to the Uniform Guidance procurement provisions as contained in 2 C.F.R. §§ 200.317–27. Consistent with these requirements, subrecipients are required to adopt and enact their own internal procurement procedures. Standards for those	https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/ByArticle/Chapter_143/Article_3D.pdf https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200#subject-group-ECFR45ddd4419ad436d

		procedures include, but are not limited to, the following: - All procurement transactions for property or services must be conducted in a manner providing full and open competition, consistent with standards outlined in 2 C.F.R. § 200.320(c)(1), (2), (3), and (5), which allows for non-competitive procurements only if either (1) the item is below the micro-purchase threshold; (2) the item is only available from a single source; (3) the public exigency or emergency will not permit a delay from publicizing a competitive solicitation; or (4) after solicitation of a number of sources, competition is determined inadequate. - Subrecipients must maintain oversight to ensure that their contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. - Pursuant to 2 C.F.R. § 200.321, subrecipients must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. - Subrecipients must "maintain records sufficient to detail the history of procurement. These records will include but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price." 2 C.F.R. § 200.318(i).	
Mandatory Contract Provisions	2 C.F.R. § 200.327 2 C.F.R. Part 200, Appendix II U.S. Treasury Final Rule FAQ	Under 2 C.F.R. § 200.327, subrecipients are required to include certain contract provisions in their agreements with contractors and subcontractors to carry out the work required for their ARPA subaward. These may include but are not limited to provisions concerning: - Administrative, contractual, or legal remedies where contractors violate or breach contract terms - Termination of the contract for cause and for convenience, including the manner by which it will be effected and the basis for settlement. - Equal Employment Opportunity - Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3708) - Procurement of Recovered Materials (2 C.F.R. § 200.323) - Domestic Preferences for Procurement (2 C.F.R. § 200.322) - Prohibition on certain telecommunications and video surveillance services or equipment (2 C.F.R. § 200.216)	https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.327 https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/appendix-Appendix%20II%20to%20Part%20200 https://home.treasury.gov/system/files/136/SLFRF-Final-Rule-FAQ.pdf (See section #6.15)

		• Debarment and Suspension (Executive Orders 12549 and 12689) • Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) • Clean Air Act and the Federal Water Pollution Control Act (42 U.S.C. 7401–7671q and 33 U.S.C. 1251–1387) Per U.S. Treasury guidance in the SLFRF Final Rule FAQ, Davis-Bacon Act requirements do not apply to projects funded solely with ARPA/SFRF funds. Such projects will not have to include a provision regarding the Davis-Bacon Act in their agreements with contractors or subcontractors that may otherwise be required under 2 C.F.R. § 200.327.	
Equipment & Property Management	2 C.F.R. §§ 200.310–16	All real property acquired or improved, and equipment or supplies purchased in whole or in part with ARPA funds must be used, insured, managed, and disposed of in accordance with 2 C.F.R. §§ 200.310–16.	https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D
Closeout	2 C.F.R. § 200.344	Closeout must comply with applicable requirements of 2 C.F.R. § 200.344, including the requirement that subrecipients must, no later than ninety (90) calendar days after the end of the period of performance, submit to NC DEQ all required financial, performance, and other reports. Subrecipients must also promptly refund any unobligated cash that they are not authorized to retain for use in other projects. Completion of closeout does not release subrecipients from their obligations under state and federal compliance, legal, and regulatory requirements. Subrecipients will continue to be subject to post-closeout adjustments and continuing responsibilities in accordance with 2 C.F.R. § 200.345.	eCFR :: 2 CFR 200.344 -- <u>Closeout.</u>

Universal Identifier and System for Award Management (SAM)	2 C.F.R. Part 25	In accordance with 2 C.F.R. Part 25, subrecipients are required to obtain, and provide to NC DEQ, a Unique Entity Identifier assigned by the SAM.	https://www.ecfr.gov/current/title-2/subtitle-A/chapter-I/part-25
Debarment & Suspension	2 C.F.R. Part 180 31 C.F.R. Part 19	In accordance with 2 C.F.R. Part 180, and U.S. Treasury's implementing regulations at 31 C.F.R. Part 19, subawards may not be issued to anyone listed on the governmentwide exclusions in the SAM.	https://www.ecfr.gov/current/title-2/subtitle-A/chapter-I/part-180 https://www.ecfr.gov/current/title-31/subtitle-A/part-19
FFATA Required Executive Compensation Information	2 C.F.R. Part 170	Subrecipients will be required to provide NC DEQ with information sufficient to allow us to meet our reporting obligations under the Federal Funds Accountability and Transparency Act (FFATA), which requires public disclosure of executive compensation in certain federally funded organizations. NC DEQ will be required to report the names and total compensation of each of Subrecipient's five most highly compensated executives for the preceding completed fiscal year, if: 1) In Subrecipient's preceding fiscal year, the subgrantee received: i. 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. 170.320 (and subawards); and ii. \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards) 2) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total	https://www.ecfr.gov/current/title-2/subtitle-A/chapter-I/part-170

		compensation filings at http://www.sec.gov/answers/execomp.htm).	
New Restrictions on Lobbying	31 C.F.R. Part 21	Subrecipients are subject to the restrictions on lobbying in 31 C.F.R. Part 21. Pursuant to this regulation, subrecipients cannot use federal funds to pay any person to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered federal actions: the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement. Subrecipients will be required to submit a certification in writing that they have not made, and will not make, any payments prohibited under these requirements. NC DEQ will provide the necessary certification form.	https://www.ecfr.gov/current/title-31/subtitle-A/part-21
Uniform Relocation and Real Property Acquisition Policies Act	42 U.S.C. §§ 4601–55	Any acquisition of real property by a subrecipient using ARPA funds must comply with the applicable provisions of the Uniform Relocation and Real Property Acquisition Policies Act of 1970 (42 U.S.C. §§ 4601–55), as amended. Subrecipients will have to certify in writing that they have or will have a fee simple or such other estate or interest in the site of the project, including necessary easements and rights-of-way, to assure undisturbed use and possession for the purpose of construction and operation for the estimated life of the project. NC DEQ will provide the necessary certification form.	https://uscode.house.gov/view.xhtml?path=/prelim%40title42/chapter61&edition=prelim

U.S. Treasury Wage and Labor Requirements	U.S. Treasury SLFRF Compliance & Reporting Guidance	Projects with a total cost of \$10,000,000 or more must meet U.S. Treasury requirements for prevailing wage rates, project labor agreements, and related requirements. Subrecipients can either certify meeting the requirements or provide plans and reports as the SLFRF Compliance and Reporting Guidance specifies.	https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf (See page 31)
Whistleblower Protections	41 U.S.C. § 4712 U.S. Treasury CSFRF Financial Assistance Agreement – States & Territories	These protections require subrecipients to: inform employees working on any federal award that they are subject to the whistleblower rights and remedies of the program; inform employees in writing of employee whistleblower protections under 41 U.S.C. § 4712 in the predominant native language of the workforce; and include such requirements in any agreement made with subcontractors or subgrantees.	https://www.govinfo.gov/app/details/USCODE-2022-title41/USCODE-2022-title41-subtitleI-divsnC-chap47-sec4712 https://uscode.house.gov/view.xhtml?req=(title:41%20section:4712%20edition:prelim) https://home.treasury.gov/system/files/136/Financial-Assistance-Agreement-States-and-Territories.pdf (See term #16)
Clean Air Act & Federal Water Pollution Control Act	Clean Air Act (42 U.S.C. 7401–7671q) Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387).	For subawards in excess of \$150,000, subrecipients are required to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401–7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. §§ 1251–1387).	https://uscode.house.gov/view.xhtml?req=granuleid%3AUSC-prelim-title42-chapter85&saved=%7CKHRpdGxlOjQyIHNIY3Rpb246NzQwMSBIZGI0aW9uOnByZWxpY3Rk%3D%7C%7C%7C0%7Cfalse%7Cprelim&edition=prelim https://uscode.house.gov/view.xhtml?path=/prelim@title33/chapter26&edition=prelim
Governmentwide Requirements for Drug-Free Workplace	Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq., as amended) 31 C.F.R. Part 20	ARPA/SFRF subrecipients are subject to the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701, as amended) that apply to grants and other financial assistance awards, as well as U.S. Treasury's implementing regulations, 31 C.F.R. Part 20.	https://uscode.house.gov/view.xhtml?req=granuleid:USC-2000-title41-section701&num=0&edition=2000 https://www.ecfr.gov/current/title-31/subtitle-A/part-20

Hatch Act	Hatch Act (5 U.S.C. §§ 1501–08 and 7324–28)	ARPA/SFRF subrecipients are subject to the applicable requirements of the Hatch Act (5 U.S.C. §§ 1501–08 and 7324–28), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.	https://uscode.house.gov/view.xhtml?path=/prelim@title5/part2/chapter15&edition=prelim https://uscode.house.gov/view.xhtml?req=granuleid%3AUSC-prelim-title5-chapter73&edition=prelim
Other State Requirements	N.C. General Statutes Chapters 159, 159G, 143C 09 N.C. Admin. Code 03M	Use of these funds is subject to applicable state laws and regulations including, but not limited to, N.C. General Statutes Chapters 159 (Local Government Finance) and 159G (Water Infrastructure). Subrecipients who are neither local government units nor public authorities must also comply with applicable requirements of the State Budget Act and Title 09, Subchapter 03M of the N.C. Administrative Code.	https://www.ncleg.net/EnactedLegislation/Statutes/PDF/ByChapter/Chapter_159.pdf https://www.ncleg.gov/enactedlegislation/statutes/html/bychapter/chapter_159g.html https://www.ncleg.gov/Laws/GeneralStatuteSections/Chapter143C http://reports.oah.state.nc.us/ncac/title%2009%20-%20governor%20and%20lt.%20governor/chapter%2003%20-%20state%20budget%20and%20management/subchapter%20m/subchapter%20m%20rules.pdf
Distressed Units	N.C. Gen. Stat. § 159G-45(b).	Local government units designated as distressed must complete associated requirements of N.C. Gen. Stat. §159G-45(b).	https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter_159G/GS_159G-45.pdf

Subrecipient Monitoring and Management	2 C.F.R. §§ 200.331–33 NC DEQ's Subaward and Monitoring Policy	Pursuant to 2 C.F.R. §§ 200.331–33, subrecipients will be subject to monitoring and management by the pass-through entity, NC DEQ. NC DEQ will monitor, evaluate, and provide guidance and direction to subrecipients as they carry out project activities. NC DEQ is required by U.S. Treasury to determine whether subrecipients have spent funds in accordance with applicable laws, regulations, and agreements and will monitor subrecipients' activities to ensure they have met such requirements. If deficiencies are found, subrecipients may be asked to take corrective action. The type and degree of monitoring activities depends on the results of the Subrecipient Risk Assessment. Subrecipients are subject to the following procurement monitoring activities by NC DEQ: • NC DEQ review of solicitations. ○ Except for micro-purchases made pursuant to 2 C.F.R. § 200.320(a)(1) or procurements by small purchase procedures pursuant to 2 C.F.R. § 200.320(a)(2), if a subrecipient wishes to enter into a contract to carry out an approved activity under their subaward, then the subrecipient will have to send NC DEQ a copy of the applicable solicitation (whether competitive or non-competitive) at least fifteen (15) days prior to the publication or communication of the solicitation. ○ Consistent with 2 C.F.R. § 200.325, NC DEQ may review any solicitation for compliance with applicable procurement standards. • NC DEQ review of contracts. ○ Except for micro-purchases pursuant to 2 C.F.R. § 200.320(a), if a subrecipient wishes to enter into a contract to carry out an approved activity under their subaward, then the subrecipient will have to send NC DEQ a copy of the written contract prior to contract execution. ○ Consistent with 2 C.F.R. § 200.325, NC DEQ may review any unexecuted contract for compliance with the procurement standards outlined in 2 C.F.R. §§ 200.318–27 as well as 2 C.F.R. § 200.327.	https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR031321e29ac5bbd/section-200.331 https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR031321e29ac5bbd/section-200.332 https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR031321e29ac5bbd/section-200.333
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Interventions	2 C.F.R. § 200.208 2 C.F.R. § 200.339	If NC DEQ determines that a subrecipient is not in compliance with procurement requirements, NC DEQ may initiate an intervention, in accordance with 2 C.F.R. § 200.208 and 2 C.F.R. § 200.339. The degree of a subrecipient's performance or compliance deficiency will determine the degree of intervention.	https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-C/section-200.208 https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR86b76dde0e1e9dc
Reporting Requirements	U.S. Treasury Compliance and Reporting Guidance N.C. Sess. L. 2021-180 NC DEQ Subaward Monitoring Plan	Subrecipients are required to send NC DEQ reports and back-up data, including reports which enable NC DEQ to meet its own reporting obligations to U.S. Treasury and as otherwise required by state law. The frequency of reporting will be consistent with the DEQ Subrecipient Monitoring Plan.	https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf https://www.ncleg.gov/enactedlegislation/sessionlaws/html/2021-2022/sl2021-180.html
Audit Requirements	2 C.F.R. Part 200, Subpart F 09 NCAC 03M.0205(a)(3) and (b)(4) 2 C.F.R. § 200.503	Subrecipients that expend more than \$750,000 in federal awards during their fiscal year, with the exception of local governments who choose to undergo an Alternative Compliance Examination Engagement, will be subject to an audit under the Single Audit Act and 2 C.F.R. Part 200, Subpart F. Subrecipients that receive less than \$750,000 in federal awards during their fiscal year are exempt from federal audit requirements (except as noted in 2 C.F.R. § 200.503), but may still be subject to state audit requirements as discussed below. Subrecipients exempt from federal audit requirements are still required to retain and provide records for review or audit upon request by the federal agency, the state, or the Government Accountability Office. Subrecipients who are neither local governments nor public authorities and receive \$500,000 or more in state financial assistance using federal funds are required to provide a single or program-specific audit to the Department of the State Treasurer, or to NC DEQ upon request pursuant to 09 N.C. Admin. Code 03M.0205(a)(3) and (b)(4). Subrecipient local governments and public authorities who expend \$500,000 or more in state financial assistance are also required to have a single audit performed pursuant to N.C. Gen. Stat. § 159-34.	https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-F https://files.nc.gov/ncgov/documents/files/ncpro/XX-XX-Attachment-B-09-NCAC-03M.pdf https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-F/subject-group-ECFRfd0932e473d10ba/section-200.503

**STATE OF NORTH CAROLINA
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WATER INFRASTRUCTURE**

Funding Offer and Acceptance

Legal Name and Address of Award Recipient

Town of Black Mountain
160 Midland Avenue
Black Mountain, North Carolina 28711

Project Number(s): SRP-SW-ARP-0026

Assistance Listing Number: 21.027

Unique Entity ID Number: FBFRMA4EHMM5

Funding Program

Drinking Water	☐	Additional Amount for	Previous Total	Total Offered
Stormwater	☒	Funding Increases		
Wastewater	☐			
State Revolving Fund-Repayable Loan	☐			
State Revolving Fund-Principal Forgiveness	☐			
State Reserve Loan	☐			
State Reserve Grant	☐			
State Reserve Earmark (S.L. 2023-134)	☐			
American Rescue Plan Act - LASII	☒			\$5,000,000

Project Description:

Black Mountain North Bank Swannanoa River
Floodbench Project

Total Financial Assistance Offer: \$5,000,000

Total Project Cost: \$5,000,000

Estimated Closing Fee*: \$0.00

For Loans

Interest Rate:

Maximum Loan Term:

**Estimated closing fee calculated based on grant and loan amount.*

Pursuant to North Carolina General Statute 159G:

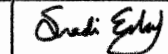
- The applicant is eligible under Federal and State law,
- The project is eligible under Federal and State law, and
- The project has been approved by the Department of Environmental Quality as having sufficient priority to receive financial assistance.

The Department of Environmental Quality, acting on behalf of the State of North Carolina, hereby offers the financial assistance described in this document.

For The State of North Carolina:

**Shadi Eskaf, Director, Division of Water Infrastructure
North Carolina Department of Environmental Quality**

DocuSigned by:



Signature

2/23/2024

Date

On Behalf of:

Town of Black Mountain

Name of Representative in Resolution:

Title (Type or Print):

I, the undersigned, being duly authorized to take such action, as evidenced by the attached CERTIFIED COPY OF AUTHORIZATION BY THE APPLICANT'S GOVERNING BODY, do hereby accept this Financial Award Offer and will comply with the attached Assurances and the Standard Conditions.

Signature

Date

APPLICABLE STANDARD CONDITIONS

Project Applicant: Town of Black Mountain

Project Number(s): SRP-SW-ARP-0026

1. Acceptance of this Funding Offer does not exempt the Recipient from complying with requirements stated in the U.S. Treasury's Final Rule for the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) and the SLFRF Compliance and Reporting Guidance not explicitly referred to in this document and any future requirements implemented by the U.S Treasury.
2. Acquisition of Real Property must comply with all applicable provisions of the Uniform Relocation and Real Property Acquisition Policies Act of 1970 (PL 92-646), as amended. The applicant shall certify that it has or will have a fee simple or such other estate or interest in the site of the project, including necessary easements and rights-of-way, to assure undisturbed use and possession for the purpose of construction and operation for the estimated life of the project using a certification form provided by DEQ.
3. Specific MBE/WBE (DBE) forms and instructions are provided that are to be included in the contract specifications. These forms will assist with documenting positive efforts made by recipients, their consultants and contractors to utilize disadvantaged businesses enterprises. Such efforts should allow DBEs the maximum feasible opportunity to compete for subagreements and subcontracts to be performed. Documentation of efforts made to utilize DBE firms must be maintained by all recipients, and construction contractors, and made available upon request.
4. Subrecipients shall fully comply with Subpart C of 2 CFR Part 180 entitled, "Responsibilities of Participants Regarding Transactions Doing Business with Other Persons," as implemented and supplemented by 2 CFR Part 1532. Recipient is responsible for ensuring that any lower tier covered transaction, as described in Subpart B of 2 CFR Part 180, entitled "Covered Transactions," includes a term or condition requiring compliance with Subpart C. Recipient is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. Subrecipients may access suspension and debarment information at: <http://www.sam.gov>. This system allows subrecipients to perform searches determining whether an entity or individual is excluded from receiving Federal assistance.
5. Projects with a total cost of \$10,000,000 or more must meet U.S. Treasury requirements for prevailing wage rates, project labor agreements, and related requirements. Recipients can either certify meeting the requirements or provide plans and reports as the SLFRF Compliance and Reporting Guidance specifies.
6. 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. ARPA-funded projects must also adhere to North Carolina State law, specifically NC General Statute 143-64.31, Article 3D Procurement of Architectural, Engineering, and Surveying (A/E) Services. NCGS 143-64.32 cannot be used to exempt funding recipients from a qualification-based selection for A/E. The State provides applicable certification forms that must be completed prior to receiving funds for any engineering services covered under this funding offer.
7. Local government units designated as distressed must complete associated requirements of statute §159G-45(b).
8. Funds made available by the ARPA that are not disbursed to the entity accepting the funds in this document by December 31st, 2026, will no longer be available for the project. Unused Federal funds will revert from the State of North Carolina to the U.S. Treasury.

ASSURANCES**Project Applicant: Town of Black Mountain****Project Number(s): SRP-SW-ARP-0026**

1. The Applicant intends to construct the project or cause it to be constructed to final completion in accordance with the Application approved for financial assistance by the Division. The recipient acknowledges that in the event a milestone contained in the Letter of Intent to Fund is missed, the Department of Environmental Quality will rescind this Funding Offer.
2. The Applicant is responsible for paying for the costs ineligible for ARPA funding.
3. The construction of the project, including the letting of contracts in connection therewith, conforms to the applicable requirements of State and local laws and ordinances.
4. The Applicant will provide and maintain adequate engineering supervision and inspection.
5. The recipient agrees to establish and maintain a financial management system that adequately accounts for revenues and expenditures. Adequate accounting and fiscal records will be maintained during the construction of the project and these records will be retained and made available for a period of at least three years following completion of the project.
6. All ARPA funds shall be expended solely for carrying out the approved project, and an audit shall be performed in accordance with G.S. 159-34. Partial disbursements on this loan will be made promptly upon request, subject to adequate documentation of incurred eligible costs, and subject to the recipient's compliance with the Standard Conditions of this Award. The Applicant agrees to make prompt payment to its contractor, and to retain only such amount as allowed by North Carolina General Statute.
7. The applicant will expend all of the requisitioned funds for the purpose of paying the costs of the project within three (3) banking days following the receipt of the funds from the State. Please note that the State is not a party to the construction contract(s) and the Applicant is expected to uphold its contract obligations regarding timely payment.
8. Funds must be fully spent (i.e., fully disbursed to the recipient) by December 31, 2026.
9. The applicant acknowledges that loan funds contained in this Funding Offer require approval from the North Carolina Local Government Commission before they can be disbursed.

PROOF OF PUBLICATION

Attn Accounts Payable
Town Of Black Mountain
160 Midland Ave
Black Mountain NC 28711-3112

STATE OF WISCONSIN, COUNTY OF BROWN

Before the undersigned, a Notary Public, duly
commissioned, qualified and authorized by law to
administer oaths, personally appeared said legal clerk, who,
being first duly sworn, deposes and says: that he/she is the
legal clerk of The Asheville Citizen-Times, engaged in
publication of a newspaper known as The Asheville Citizen-
Times, published, issued and entered as first class mail in
the city of Asheville, in Buncombe County, State of North
Carolina; that he/she is authorized to make this affidavit
and sworn statement; that the notice or other legal
advertisement, a true copy of which is attached here to,
was published in said newspaper in the issues dated:

01/24/2024

That said newspaper in which said notice, paper, document
or legal advertisement was published was, at the time of
each and every publication, a newspaper meeting all the
requirements and qualifications of Section 1-597 of the
General Statutes of North Carolina and was a qualified
newspaper within the meaning of Section 1-597 of the
General Statutes of North Carolina.

Sworn to and subscribed before on 01/24/2024

Legal Clerk

Notary, State of WI, County of Brown

My commission expires

Publication Cost: \$244.10

Order No: 9764619

Customer No: 948801

PO #: LGSC0053641

of Copies:
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THIS IS NOT AN INVOICE!

Please do not use this form for payment remittance.

VICKY FELTY
Notary Public
State of Wisconsin

Public Notice - Request for Qualifications/Pricing
This REQUEST FOR QUALIFICATIONS/PRICING ("RFQ/P") from the Owner named below invites the submittal of a STATEMENT OF QUALIFICATIONS/PRICING ("RESPONSE") from design-build firms or teams interested in providing design-build services ("Respondent") for the project described below. By submitting a Response, the Respondent represents that it has carefully read the terms and conditions of this RFQ/P and all attachments and Addenda and agrees to be bound by them. This RFQ/P is not an offer to enter into a contract, but merely a solicitation of persons interested in submitting a Response to the Owner for the project described below.

OWNER:

Town of Black Mountain
160 Midland Ave.
Black Mountain, NC 28711

PROJECT:

SRP-SW-ARP-0026, Swannanoa River Floodbench & Constructed Wetlands

LOCATION:

Town of Black Mountain, Buncombe County, North Carolina
Responses for the services specified will be received by the Town of Black Mountain at the specified location listed in this RFQ/P document, until the date and time cited. Responses received by the correct time shall be considered. Responses received after the due date and time will not be considered.

PROCUREMENT WEBSITE:

To view or download the RFQ/P for this project, go to the website listed below: Town of Black Mountain Bidding Opportunities: <https://www.townofblackmountain.org/Bids.aspx>.

RESPONSE DUE DATE AND TIME:

Respondent's Response shall be submitted and received by the Town no later than: February 20, 2024, 2:00 p.m. Official time will be Eastern Standard Time (EST [UTC-5]) as kept by the National Institute of Standards & Technology: <https://time.gov/>.

Responses submitted via US Postal Service, FedEx, UPS, or Hand Delivery

Town of Black Mountain
160 Midland Ave.
Black Mountain, NC 28711
Attn: Angela Reece, MPA, Project Manager

****Electronic (email) or facsimile submissions will not be accepted.**

January 24 2024
LGSC0053641

NC DOA HUB Solicitation Opportunities

Select a report filter:

Solicitation Due Date

Solicitation Type

Disaster Related

Organization

Project Location

Opportunity Report

Select an Organization

Town of Black Mountain



Select a Project

#9756 PROJECT # SRP-SW-ARP-0026 Swannanoa River Floodbench and Con...

Show Opportunity

Clear All

Solicitation Information

Due Date: 2/20/2024
Due Time: 2:00PM
Type: Construction
Organization: Town of Black Mountain

Project Information

Project Title: #9756 PROJECT # SRP-SW-ARP-0026 Swannanoa River Floodbench and Constructed Wetlands State Water Infrastructure Authority Construction Grant
Is this Disaster Related (Preparation, Response, or Recovery)? No
Project Location Address: Multiple Project Sites, Black Mountain, North Carolina 28711

Pre-Solicitation Meeting Information

Is there a meeting? Yes
Is the meeting mandatory or optional? Mandatory
Due Date: 2024-01-31
Due Time: 12:00PM
Meeting Type: Onsite meeting
Virtual Web Meeting Information:

Submission Details

Date: 2/20/2024
Time: 2:00PM
Meeting Type:
Virtual Meeting Info:
Onsite Address: 160 Midland Ave.
Black Mountain, North Carolina 28711

Scope of Work

Please review the solicitation, Section IV, beginning on page 10 for the full scope.

Project Contact Information

Name: Angela Reece
Phone Number: 828-419-9315
Email: angela.reece@tobm.org
Website:
<https://www.townofblackmountain.org/Bids.aspx?BidID=38>

**RESOLUTION BY THE TOWN OF BLACK MOUNTAIN TOWN COUNCIL TO ACCEPT
FUNDING FROM THE NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL
QUALITY FOR THE SWANNANOA RIVER FLOODBENCH & CONSTRUCTED WETLANDS
PROJECT SRP-SW-ARP-0026**

WHEREAS, the American Rescue Plan Act (ARPA), funded from the State Fiscal Recovery Fund, was established in Session Law (S.L.) 2021-180/2022-74 to assist eligible units of local government with meeting their drinking water and/or wastewater and/or stormwater infrastructure needs, and

WHEREAS, the North Carolina Department of Environmental Quality has offered LASII ARPA funding in the amount of **\$5,000,000.00** to perform the work detailed in the submitted application, and

WHEREAS, the Town of Black Mountain intends to perform said project in accordance with the agreed scope of work; and

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

1. That the Town of Black Mountain does hereby accept the ARPA grant offer of **\$5,000,000.00**; and
2. That the Town of Black Mountain does hereby give assurance to the North Carolina Department of Environmental Quality that any *Conditions* or *Assurances* contained in the *Funding Offer and Acceptance* (award offer) will be adhered to; has substantially complied, or will substantially comply, with all federal, State of North Carolina (State), and local laws, rules, regulations, and ordinances applicable to the project; and to federal and State grants and loans pertaining thereto; and
3. That Josh Harrold, Town Manager, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with this project; to make the assurances as contained above; and to execute such other documents as may be required by the North Carolina Department of Environmental Quality, Division of Water Infrastructure.

Adopted by the Town Council of the Town of Black Mountain, North Carolina on this 11th day of March 2024.

ATTEST:

C. Michael Sobol, Mayor

Wesley M. Barker, Town Clerk

Josh Harrold, Town Manager

**RESOLUTION BY THE TOWN OF BLACK MOUNTAIN TOWN COUNCIL TO ENTER
INTO A CONTRACT FOR PROFESSIONAL DESIGN-BUILD SERVICES FOR THE BLACK
MOUNTAIN SWANNANOA RIVER FLOODBENCH & CONSTRUCTED WETLANDS
PROJECT-SRP-SW-ARP-0026**

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, based upon the Town of Black Mountain Design-Build Criteria, the Town of Black Mountain conducted a qualifications and price based selection process to solicit proposals using 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; and

WHEREAS, Town Staff have determined _____ as most advantageous, and have received and negotiated a scope of work and fee from _____ to provide engineering, design, permitting, and construction administration services to support the project.

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

1. _____ (selected firm) is most advantageous to provide professional engineering, design, permitting, and construction administration services for the project, as recommended by staff.
2. The proposal (attached as Exhibit A) for engineering, design, permitting, and construction administration services from _____ (selected firm) is approved in the amount \$ _____.

3. The Town Manager and Town Attorney are authorized to negotiate and execute a final contract with _____ (selected firm) not to exceed a total amount of **\$5,000,000.00**, consistent with the Town's purchasing terms and conditions and of this Resolution, as approved by the Town Attorney.

Adopted by the Town Council of the Town of Black Mountain, North Carolina on this 11th day of March 2024.

ATTEST:

Wesley M. Barker, Town Clerk

C. Michael Sobol, Mayor

Josh Harrold, Town Manager