



Downtown Boone Development Association

Regular Meeting

<http://www.townofboone.net/>

~ Agenda ~

Brittney Clark

Tuesday, June 12, 2018

8:30 AM

Jones House Cultural and Community Center

I. General Business

1. Request for Approval of June Agenda
2. Request for Approval of May Minutes
3. Request for Approval of Financial Statements

II. Organization

1. Updated Agreement with the Town of Boone for 2018-2019

Allison Meade, the Town Attorney, changed some of the language from the previously voted on contract with the Town of Boone.

Redline Copy attached to show changes.

2. Updated Agreement with the Town of Boone for 2018-2019

Clean version attached

3. Annual Meeting

Discussion on how to handle notice of Annual Meeting

III. Financial

1. Bank Transfer

Monica oversaw the transfer of money from our Checking account into a Savings account to keep our bank accounts active.

IV. Promotion

1. Wayfinding Banners

Quote and Banner Mock-up from Mosca Design

2. Wayfinding Banners

Quote and Design Mock-up

3. July First Friday

Shannon Shanely, with the Department of Recreation Management, has two students (Zach Crawl and Matt Jones) who will do an activity for their class project for First Friday.

I have suggested turning Jimmy Smith Park's sidewalk into a monopoly board, and letting them figure out the rules of the game for kids to play it during First Friday in July.

Volunteers?

V. Design**VI. Other Business, Comments, Concerns****VII. Call for Adjournment**



Downtown Boone DEVELOPMENT ASSOCIATION

Downtown Boone Development Association

Regular Board of Directors Meeting

June 12, 2018

8:30 am – Jones House Community and Cultural Center

General Business

- Call to Order
- Request for Approval of June Agenda
- Request for Approval of May Minutes
- Request for Approval of Financial Statements

Organization

- Updated Agreement with the Town of Boone for 2018-2019
- Annual Meeting

Financial

- Bank Transfer

Promotion

- Wayfinding Banners
- July First Friday

Design

Other business, comments, or concerns

Call for Adjournment

**Downtown Boone Development Association
Regular Board of Directors Meeting – May 8, 2018
8:30 am – Jones House Cultural and Community Center**

Board Members present: Kendra Sink, Victoria Potter, Alex Hooker, Denise Lovin, Angela Kelly, Tucker Deal, Dave Walker, Anna Roseman, Monica Caruso, Sam Parker

Ex-Officios present: Lynne Mason, Loretta Clawson

MSD members/guests present: Megan Biddix, Marshall Ashcroft, Sandra Diaz

Staff present: Brittney Clark, Glen Kornhauser, Brian Johnson, John Ward

Handouts: Agenda, Financial Statements

GENERAL BUSINESS

Brittney called the meeting to order at 8:30 am.

APPROVAL OF MINUTES AND AGENDA

Agenda

Kendra made a motion to move the Promotion and Design sections to the beginning of the agenda. Denise made a motion to approve the amended agenda; Angela seconded.

Minutes

Kendra made a motion to approve the minutes; Alex seconded.

Current Financial Statements

Victoria made a motion to approve our financial statements; Kendra seconded. A vote was held to approve all three documents; all approved.

PROMOTION

Wayfinding Signage update

Brittney updated the Board on Destination by Design's Wayfinding project that they are creating for the Watauga County TDA. Shared that Matt Powell met with John Ward, Brian Johnson and herself individually to present the visual options and that we came to the same conclusion for which design to go with that the Watauga County TDA board agreed on, which was a rustic looking arch. Brittney will send out the visuals once she receives those from Matt at DBD, who is presenting to a group in Blowing Rock the same morning as the DBDA meeting. It was clarified that these signs will go all over Watauga County, and will have the same basic design but with little changes that will denote that you are in different areas. It was reiterated that once Destination by Design has settled on a design for the county wayfinding signs, the DBDA can enter into an agreement with them for a separate project to erect pedestrian-scale wayfinding signs in Downtown that will match the county-wide signage, and then we

can move forward at the same time as the County signage, and possibly not be too far behind their project.

Branding Quote and Decision

Brittney shared that she never heard back from Ben Muldrove so the branding quotes are the same that were presented at the last meeting: Destination by Design, 828Designs, and CrowdSpring. Kendra shared that she feels like going with Destination by Design, which is already invested in our community, makes more sense and that we would be better off, even though it costs more. Brittney shared that we can re-encumber the \$8,000 left in the advertising budget from the 2017-2018 and put it into the 2018-2019 advertising budget to cover Destination by Design's \$7,500 fee. Tucker questioned Destination by Design's mention of existing market research in their quote; Brittney shared about the Marketing Committee's Image Building brainstorming sessions and the outcome of the idea of "Start Here". Tucker made a motion to approve entering into an agreement with Destination by Design; Kendra seconded. All voted in favor.

DESIGN

Façade Grant Application

Brittney shared that Ransom has applied for a Façade Grant Application and that the Design committee met and is making a recommendation that the grant be approved for 50% of the project cost, up to \$5,000. Right now, their total cost is \$8,157, so the grant amount could be less than \$5,000. Kendra shared that the glass that they are applying to restore is some of the oldest glass on King Street. Alex made a motion to approve the Façade Grant application; Anna seconded and all voted in favor.

10 Year Plan for the MSD

Brittney shared the documents that she has pulled together, which will be presented at the next town council meeting, for creating a plan for fulfilling the mandate from Council that all of the assets found in the core of Downtown Boone be spread out to the entire MSD within the next 10 years. The first document was a square footage calculation of all of the sidewalks that still need to be upgraded. The second document was a budget for those sidewalks to be constructed, which shows that we can get through project number 17 with the funds that have already been transferred to Public Works for sidewalk improvements. We could get through project number 29 with the current fund balance, and can finish the rest of the sidewalk sections using the currently allocated Streetscapes budget over the next 4 years. This utilizes public works staff at a cost of \$8.00/sq ft, which is an enormous savings, because a contractor would cost about \$25/sq ft. Conversations are taking place regarding the allotment of staff for downtown sidewalks and priorities. Concerns were raised that the town needs more staff to do the work – we aren't getting any smaller – and that the current sidewalks are a liability waiting to happen. Brittney also shared about the information gathered when Matt Makdad from New River Light and Power came downtown to walk around and look at street poles with Brittney and Kendra. We were originally discussing exchanging the wooden power poles with black metal poles and the cost associated with that. The conversation transitioned into the possibility of burying the power lines instead, which can be done by burying pipes under the sidewalk when we are fixing those

sidewalks that power lines can be run at a later date, which will cost more money but have a better look in the end. The DBDA's recommendation is that burying the power lines is worth the additional investment. Exploring grants is also something else that the DBDA would like to explore.

Brittney also shared about the other research she has done regarding benches (Board wants to put the new Downtown Boone logo on the bench, rather than the Town of Boone logo, when that logo is ready), as well as information about the placement of tree wells, planter bulbs, bike racks, trash cans, etc. These options will be incorporated into a new plan for revamping downtown. Discussion also ensued about the peeling paint on the meters – Tucker suggested we look into what the contract says regarding warranty.

The Board of Directors would like the Town to look into financing options that would allow us to do the work faster and then pay it off over 10 years. They would also like to get the Community Appearance Commission involved with the plan.

ORGANIZATION

Parking Voucher System discussion

Lynne Mason shared that the council did not take any action on the agenda item at the last council meeting, and she wanted to get input from the Board regarding what that action should look like. The Board stuck with the same recommendations as before, which were: pursuing extending the grace period (currently at 5 min); exploring a merchant-funded voucher system (merchants can purchase \$2 validation stickers that they can apply one per customer per day); and exploring using all available parking lots on weekends and holidays. Lots of discussion ensued about the lack of complaints coming in these days about parking tickets. One suggestion was to look into whether our meters can send people a little note/text/something when their parking meter is about to expire. Lynne asked if anyone from the board wanted to make up a subcommittee to further discuss a parking validation program. Lynne will talk to McLaurin about the grace period.

Downtown Redistricting Presentation

Brian Johnson shared about the plan to add a historic district, a warehouse district, and an interface area that makes up the rest of the B1 district outside of the MSD. 2006 there were design guidelines adopted that are no longer consistent with our downtown area. This created a discussion about creating specific guidelines for Downtown, which both the Community Appearance Commission and the Historic Preservation Committee were working on, separately. It was then decided that the two groups needed to get together and come up with the same guidelines. Brian described the process the groups went through to come with the different districts, and how the DBDA will be brought into the discussion as things move forward over the next 4 to 5 months. Hoping for a draft document in September or October. Tucker shared it would be a good idea for the Town to reach out to property owners, outside of the traditional means that the Town uses for these notices, when major changes are going to take place.

UNC School of Government DFI Update

Brittney shared the latest guiding principles from DFI with the Board:

- *Cultivate Boone's sense of place by adaptively reusing historic buildings where possible and including sustainable design principles, features, and building materials*
- *Prioritize new development that is historically compatible and consistent in size with neighboring structures*
- *Ease development pressure on the historic core of King Street by focusing new development on other streets*
- *Serve Boone's multi-generational community*
- *Enhance the pedestrian experience by including off-street parking solutions that balance parking supply with current and future demand and creating, preserving, or enhancing public space*
- *Use public investment to attract private investment, if necessary*

Tucker asked where we were in the process – John Ward answered that DFI presented to Council and they are still in the site identification process, which is up to the Town Council. Tucker also asked about Howard Street – John answered that they are meeting with the contractors soon and will keep the DBDA updated.

Annual Meeting Notice Plan

This agenda item was tabled due to time.

Agreement with the Town of Boone for 2018-2019

The agreement with the Town of Boone is up for renewal in June – nothing changed from last year except the dates. Angela made a motion that the agreement be approved; Victoria seconded – all voted in favor to continue with the contract with the Town.

FINANCIAL

High Country Local First Sponsorship Application

Victoria shared that the funds she is requesting would be used for rentals. The price will be slightly higher than what she quoted because she has to use a different company; will request \$1,000.00. They are almost at capacity – 36 vendors signed up, with room for 38. Over 1,000 people interested on Facebook. Dave made a motion to approve the request for funding; Sam seconded. All voted in favor.

Blue Ridge Women in Agriculture Sponsorship Application

Sandra Diaz presented about their proposal of having Brie Arthur lead a food-scaping tour around Downtown Boone. They are asking for \$300 to help cover that cost. The Board thought it was a great idea and were very supportive of seeing the program grow in the future. Anna made a motion to

approve the request for funding; Monica seconded. All voted in favor; Dave Walker abstained from voting due to his role with Blue Ridge Women in Agriculture.

OTHER BUSINESS, COMMENTS, OR CONCERNS

Brittney shared that at the latest Town Council meeting, a permit was approved for PubCycle, which is a multi-seat bike that will take people around town to visit different bars, restaurants, and other businesses in downtown Boone. At that Council meeting, it was requested that feedback was gathered from the DBDA regarding how business owners feel about the idea. The only concern raised was traffic being backed up on King Street, in which Tucker shared that the PubCycle has a motorized assist to help it go faster. It was also brought up that during peak traffic, no cars are going 35 mph, so it shouldn't cause a problem. Hours will also vary seasonally. Another question was about liability – the PubCycle takes on all liability. Pick up and drop off locations were a concern of the Council, which is something the owner still needs to work out. Mostly the sentiment was that everyone was “all for it”. Brittney invited anyone to send her feedback via email.

Call for Adjournment

Tucker motioned for the meeting to adjourn at 10:17 am; Megan seconded. All approved.

Report: M:\live\glglrepx.p
Version: 020001-L58.69.00
User ID: brittney

Town of Boone
Revenue and Expense (Multiply Segments) Without Encumbrance - MSD Revenue_Expense
For Fiscal Year 2018, Period 1 to 12 and Budget Cycle Amended and Prd 1 to 12 Actuals

Page: 1 of 1
Date: 06/04/18
Time: 09:54:35

For All Revenue, Expense Accounts
Zero Balance Accounts NOT Included

Transactions Entered From 07/01/2017
To 06/30/2018

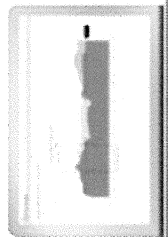
Account	Description	Period Actual	Period Budget	Period Variance	YTD Actual	YTD Variance
050-450-000-411080	CURRENT YEAR TAXES	99,903.04-	116,193.00-	16,289.96-	99,903.04-	16,289.96-
050-450-000-411083	PRIOR YEAR TAXES	84.36-	350.00-	265.64-	84.36-	265.64-
050-450-000-411300	TAX PENALTIES & INTEREST	5.91-	0.00	5.91	5.91-	5.91
050-450-000-411301	NCVTS TAXES	501.62-	956.00-	454.38-	501.62-	454.38-
050-450-000-412239	LOCAL SALES TAX 1%	17,987.01-	22,000.00-	4,012.99-	17,987.01-	4,012.99-
050-450-000-412240	LOCAL SALES TAX 1/2% (40)	7,384.12-	9,400.00-	2,015.88-	7,384.12-	2,015.88-
050-450-000-412242	LOCAL SALES TAX 1/2% (42)	8,872.73-	11,200.00-	2,327.27-	8,872.73-	2,327.27-
050-450-000-412243	LOCAL SALES TAX 1/2% (44)	8.99	0.00	8.99-	8.99	8.99-
050-450-000-412244	LOCAL SALES TAX 1/4% (40 MEDICAID RE	5,943.13-	4,800.00-	1,143.13	5,943.13-	1,143.13
050-450-000-461201	INTEREST EARNED ON INVESTMENTS	31.03-	100.00-	68.97-	31.03-	68.97-
050-450-000-499900	APPROPRIATED FUND BALANCE	0.00	5,000.00-	5,000.00-	0.00	5,000.00-
050-450-000-509100	PROFESSIONAL SERVICES	4,141.76	7,636.00	3,494.24	4,141.76	3,494.24
050-450-000-512101	MEETING EXPENSES	221.25	250.00	28.75	221.25	28.75
050-450-000-516100	OFFICE SUPPLIES	371.06	1,000.00	628.94	371.06	628.94
050-450-000-516200	OFFICE EQUIPMENT	1,854.01	1,000.00	854.01-	1,854.01	854.01-
050-450-000-519900	MISCELLANEOUS SUPPLIES	79.44	300.00	220.56	79.44	220.56
050-450-000-521101	TRAVEL & TRAINING	1,397.61	2,000.00	602.39	1,397.61	602.39
050-450-000-521300	TRAVEL & TRAINING - PUBLIC OFFICIALS	0.00	300.00	300.00	0.00	300.00
050-450-000-522101	TELEPHONE SERVICES	1,030.68	1,200.00	169.32	1,030.68	169.32
050-450-000-522201	POSTAGE	68.00	300.00	232.00	68.00	232.00
050-450-000-524101	PRINTING	921.81	3,500.00	2,578.19	921.81	2,578.19
050-450-000-525102	COMMUNITY APPEARANCE - SPECIAL PROMO	8,206.20	18,200.00	9,993.80	8,206.20	9,993.80
050-450-000-527001	ADVERTISING	2,298.00	11,000.00	8,702.00	2,298.00	8,702.00
050-450-000-533001	RENTAL OF OTHER EQUIPMENT	0.00	641.00	641.00	0.00	641.00
050-450-000-535101	INSURANCE	2,392.29	4,000.00	1,607.71	2,392.29	1,607.71
050-450-000-539100	DUES & SUBSCRIPTIONS	480.18	850.00	369.82	480.18	369.82
050-450-000-539902	BANK SERVICE CHARGES	0.00	100.00	100.00	0.00	100.00
050-450-000-545003	CONTRACTED SERVICES - INTERN (WORK S	0.00	1,400.00	1,400.00	0.00	1,400.00
050-450-000-549121	SPECIAL PROJECTS/EVENTS	4,313.11	7,000.00	2,686.89	4,313.11	2,686.89
050-450-000-553103	INVENTORY TAX REIMBURSEMENT ALLOCATI	127.66	0.00	127.66-	127.66	127.66-
050-450-000-553104	MUNICIPAL SERVICE DISTRICT PROJECTS	0.00	55,000.00	55,000.00	0.00	55,000.00
050-450-000-553112	COMMUNITY DEVELOPMENT	3,000.00	8,699.00	5,699.00	3,000.00	5,699.00
050-450-000-577000	CONTRACTED SERVICES	5,743.28	1,723.00	4,020.28-	5,743.28	4,020.28-
050-450-000-577110	WATAUGA COUNTY - COLLECTION OF TAXES	27.08	3,400.00	3,372.92	27.08	3,372.92
050-450-000-598010	TRANSFER TO GENERAL FUND	30,375.00	40,500.00	10,125.00	30,375.00	10,125.00
REPORT TOTALS:		73,655.54-	0.00	73,655.54	73,655.54-	73,655.54

*** End of Report ***

Communication: Request for Approval of Financial Statements (General Business)

My Accounts Summary

Save time and manage
your receivables and
payables **all in one place.**



Experience THE ENHANCED
Cash Flow Insight™ >>

Account List

▼ Deposit Accounts

	Account Type	Account Number	Balance ⓘ	Available ⓘ
Business Checking	Checking	XXXXXXXX9971	\$6,472.90	\$6,472.90
Business Premium Money Market	Savings	XXXXXXXX9998	\$20,075.72	\$20,075.72
Business Premium Money Market	Savings	XXXXXXXX0032	\$16,610.26	\$16,610.26
Deposit Account Totals:			\$43,158.88	\$43,158.88

Contact Us

Call 1-877-BUS-BNKG

**TTY/TDD Communications:
For Hearing Impaired Customers Only**
1-800-531-1648

Mon-Fri: 7am - 10pm ET
Sat-Sun: 8am - 5pm ET

Tweet @PNCBank_Help

More

Account Services

Customer Profile

Debit/ATM Card Services

Mobile Banking

Online Payroll

**AGREEMENT BETWEEN TOWN OF BOONE
AND THE DOWNTOWN BOONE DEVELOPMENT ASSOCIATION, INC.**

THIS AGREEMENT (“Agreement”) is entered into this 21st day of June, 2018, by and between the TOWN OF BOONE, a North Carolina municipality (hereafter referred to as “the Town”) and the DOWNTOWN BOONE DEVELOPMENT ASSOCIATION, INC., a North Carolina non-profit membership corporation (hereafter referred to as “the DBDA”), collectively referred to as “the Parties.”

W I T N E S S E T H:

THAT, WHEREAS, the Town is a municipal corporation organized pursuant to the laws of the State of North Carolina and located in Watauga County, North Carolina; and,

WHEREAS, the Town has established a Municipal Service District pursuant to N.C. Gen. Stat. § 160A-535, et seq., (hereafter “the MSD”) from which it collects a Municipal Service District tax the authorized purposes of which are identified under State law; and,

WHEREAS, whereas, the Town provides services, facilities, functions, and promotional and developmental activities in the MSD with its own forces pursuant to N.C. Gen. Stat. § 160A-536(d); and,

WHEREAS, the Town is a participant in the North Carolina Main Street Program administered by the North Carolina Department of Commerce (hereafter, “the Main Street Program”); and,

WHEREAS, the DBDA is a North Carolina Non-Profit Corporation, duly organized pursuant to the laws of the State of North Carolina to promote, encourage, and assist in the revitalization and economic health and stability of the Town’s Municipal Service District (the “MSD”);

WHEREAS, the Town provides assistance to the DBDA with its own forces, and seeks the guidance of the DBDA with respect to the expenditure of funds derived from the MSD tax (hereinafter “MSD funds”); and

WHEREAS, the Town and the DBDA wish to reduce to writing their understanding and agreement as to the governance of the DBDA, its activities relating to the MSD, and related matters;

NOW, THEREFORE, for and in consideration of the mutual promises and covenants set forth herein, and other good and valuable consideration passing from each party to the other, the receipt of which is hereby respectively acknowledged by each of the parties hereto, the parties agree and contract as follows:

1. **Term:** The term of this Agreement shall be five years~~one year~~, commencing on July 1, 2018, and ending June 30, 201923~~23~~; ~~provided, however, that at each one year anniversary~~

~~of the commencement of this Agreement, the Town shall have the right for any reason to terminate or request revision of this agreement upon giving written advance notice of the same. Such notice shall be given no later than May 1 of that year, and if the agreement is terminated or revised such termination or revision shall take effect as of July 1 of that year. No continuation or renewal of the Agreement shall be inferred following its expiration, nor shall any further commitment by either party exist without specific action by each of the parties to authorize, create and adopt a new contract, except as to those duties created by this Agreement.~~

2. **Governance:** Consistent with its Bylaws, one-half of the members of the Board of Directors of the DBDA shall be elected by the membership of the DBDA and one-half of the members shall be appointed by the Boone Town Council. Service of the new board shall begin at the first meeting of the directors following the annual meeting of the members. Should the Town Council also appoint one or more of its members as liaison to the DBDA, the DBDA board of directors shall include them in their meetings and deliberations, but they shall be considered as *ex officio*, non-voting members of the Board.
3. **Administration:** The parties acknowledge that the executive director of the DBDA is a Town employee, subject to the Town's Personnel Policy and working under the supervision of the Town Manager or his designee.
4. **Expenditure of non-MSD Funds:** The DBDA may expend its own (non-MSD) funds so long as such expenditures are accounted for using methods that satisfactorily assure their proper use and are made in accordance with pertinent law and the DBDA's own by-laws.
5. **Recommendations by DBDA to Town Council as to Expenditure of MSD Funds:** The DBDA will make recommendations to the Town Council as to expenditure of MSD funds, to ensure that:
 - A. To the extent feasible and taking into consideration the limits of the DBDA's ability to know all changes which take place within the MSD, the DBDA's Web site is updated at least quarterly and MSD directory signage is updated at least annually.
 - B. Regular office hours for public and membership access to the DBDA director or his or her designee are maintained in accordance with the hours reflected on the DBDA Web site, subject to the review and approval of the Town Manager (who must oversee the hours of employees and Town's compliance with wage and hour laws, etc.).
 - C. MSD funds are used to benefit only the MSD area and are used to benefit the entire range of stakeholder categories (i.e. service providers and other non-retail establishments) and all MSD locations (e.g. less-traveled streets and outer boundary edges).
 - D. At least 30% of MSD funds are utilized for tangible improvements to the MSD, such as streetscape improvements ~~and other improvements authorized per G.S. §160A-536(b).~~

- E. MSD funds will not be authorized for sign or façade grants until a policy is developed and recommended by the DBDA, and adopted by the Town Council, which ensures comprehensive notice of the availability of such grants and which contains criteria for determining which proposed façade or sign improvements or replacements benefit the MSD as a whole and not simply the individual property owner or business.
- F. Remaining MSD funds may be utilized, if desirable, to create, coordinate, and administer District revitalization projects which provide for services or functions, such as additional garbage pick-up, which are in addition to or to a greater extent than those provided or maintained by the Town for the entire town; to support any duly-adopted plan by the Town aimed at improving the MSD, which is specifically authorized herein; or, for such other activities which benefit the MSD, work toward its revitalization or preservation, or otherwise enhance the MSD area and help the businesses of the MSD thrive.

The DBDA's recommendations shall address activities such as:

1. Promotional and development activities, such as sponsoring festivals and markets in the MSD, promoting business investment in the MSD, helping to coordinate public and private actions in the MSD, and developing and issuing publications on the MSD designed to improve the economic well-being of the MSD.
2. Administrative of any MSD revitalization project specifically requested by the Town.
3. Creation, maintenance and administration of a clearinghouse for information concerning the availability of properties within the MSD for purchase or rent, by creating, maintaining and administering a repository of such information to which MSD property owners may contribute, as they may wish, and which shall be in a format which will make it broadly available to the public and to people potentially interested in investment in the MSD.
4. Coordinating and participating in activities, and maintaining and providing all information requested or required by or of the Town or by the North Carolina Department of Commerce in order for the Town to continue to participate in good standing in the North Carolina Main Street Program and for the Town to derive all available benefits from its continued participation in the Main Street program.

6. **Commitments by DBDA:** The DBDA agrees that:

- A. Should the DBDA hire employees with non-MSD funds, it will maintain and provide to the Town Manager a comprehensive personnel policy which addresses

and ensures appropriate controls for expenditure of funds and procedures for the supervision and discipline of staff, with personnel actions up to and including dismissal authorized.

- B. No later than 10 days after its receipt, provide the Town Manager and Town Council a full copy of any audit which it obtains. Should the DBDA obtain an audit, it shall be prepared by an independent auditing firm having no conflicts of interest and selected by the DBDA board of directors after a general solicitation to appropriate accounting firms in the region, including an Audited Income Statement with detailed expense categories, not just one generic “downtown redevelopment” expense item. The audit must disclose itemized expenditures by funding source.
 - C. At least five days before each meeting of the DBDA board of directors, the DBDA will post on its Web site and provide notice, in accordance with its duly adopted by-laws, of the meeting to its membership, Board members, Town Council members and Town Manager, along with an agenda and a copy of the draft minutes from the previous meeting.
 - D. The DBDA will provide the Town Manager with a copy of the organization’s Form 990 promptly after it is prepared.
 - E. The DBDA will maintain a written policy requiring that a fund accounting system is created and maintained ~~which that~~ ensures that any non-MSD funds are used only in accordance with State law and this contract, to the extent applicable.
 - F. The DBDA will maintain written policies ensuring that non-MSD funds are properly used in accordance with its own by-laws and in accordance with applicable law.
 - G. The DBDA will report to the Town Council the duly adopted, collective views of its full membership and its Board of Directors as to those actions and policies which the Town may consider within the District to improve the District’s economic well-being.
7. **Activities to Serve Entire Municipal Service District:** All activities of the DBDA shall be undertaken in such manner, insofar as possible, as to provide benefits to and throughout the entire District.
8. **Compliance with Laws:** The DBDA shall comply with all pertinent federal, State, county and Town laws, regulations and ordinances, including but not limited to all North Carolina and federal laws relating to the operation of non-profit membership corporations, those laws which govern the conduct of the annual meetings of its membership and the selection of its directors and officers. In addition, and not by way of exclusion, in any and all its actions and activities, the DBDA shall comply with and hereby certifies its compliance with the Americans with Disabilities Act, as amended, and Title VII of the Civil Rights Act of 1964, as amended, and should it hire employees of its own, the Fair Labor Standards Act, as amended, the Occupational and Health Safety Act, as amended, the North Carolina

Employment Security Act, as amended, and the North Carolina Worker's Compensation Act, as amended, to the extent each such law applies to the DBDA or any of its activities.

9. **Compliance with its By-Laws and Organizational Reporting to the Town:** The DBDA will operate and act in accordance with its duly adopted by-laws, including but not limited to the provisions which govern the conduct of the annual meetings of its membership, the notice and quorum requirements for meetings of its board of directors, the selection of its directors and officers, and its prohibition against legislative advocacy. The DBDA shall seasonably provide the Town with its current by-laws and a roster of its current board of directors and officers, including their names, addresses, terms and class of membership, and it shall seasonably notify and provide a copy to the Town of any changes in its by-laws or in its board of directors or officers. The DBDA shall invite and include in its membership all property owners in the MSD and it shall provide a mechanism or opportunity for all businesses and residents within the MSD to be represented in the DBDA or have their voices heard as policies are formulated and recommended. Should the DBDA's corporate status be revoked by the North Carolina Secretary of State, or should the DBDA's non-profit status be revoked by the United States Internal Revenue Service or otherwise, the DBDA shall immediately notify the Town, and the Town Council may in its discretion declare this Agreement immediately terminated.
10. **Reporting on its Activities:** At least quarterly during the term of the Agreement, and at such additional times as may be requested by the Town, the DBDA shall report to the Town Council on its activities. Said report shall include at a minimum descriptions of activities of the DBDA which have been undertaken since the prior report and those activities which are planned for the future.
11. **Financial Responsibilities:** The DBDA shall develop and recommend to the Town Council a proposed budget for the expenditure of MSD funds. The proposed budget shall include an amount sufficient to pay, at a minimum, one-half of the salary and fringe benefits of the Town employee who serves as executive director of the DBDA. The proposed budget shall be presented to the Town Council for its consideration by a date designated by the Town Manager, which date gives the Town Finance Director an adequate opportunity to review and evaluate the proposal and the Town Council an adequate opportunity to review the recommendation and propose such changes as it may determine are desirable. Should the Town Council be unwilling to accept the proposal of the DBDA in any material way, an effort shall be undertaken for the parties to discuss their differences before a final budget is approved by the Town.

The DBDA shall maintain its financial accounts for non-MSD funds and operate in accordance with generally accepted accounting principles. Financial information shall be maintained and provided, if requested, in a form acceptable to the Town and shall include, among other things, a detailed accounting for all funds from all non-MSD sources received or collected by the DBDA during the reporting period. In addition, the DBDA shall provide such records, verification of the expenditure of the funds, and other such information as requested by the Town. Should the DBDA at any time be advised by a funding, taxing or other governmental entity, or by its accountants, of any misappropriation of funds from any source or of any malfeasance or misfeasance, it shall immediately report such advice

to the Town. Should the DBDA itself discover or determine any wrongdoing, misappropriation, malfeasance or misfeasance, it shall immediately report such matter to the Town. The DBDA will notify the Town in writing within five days if any member of its staff is charged with or convicted of any crime involving malfeasance or misfeasance, or dishonesty in the use or handling of any DBDA funds, whatever the source, or if the DBDA itself is accused of any wrongdoing. Should the DBDA become aware of or suspicious of any embezzlement, malfeasance or misfeasance by an employee, agent, officer, director or other person connected with DBDA, of any of the DBDA's funds, whether from this grant or elsewhere, whatever the source, it hereby commits that it will promptly report to and notify the appropriate law enforcement agency of such act, omission or suspicion.

12. **Maintenance of Records:** All records of the DBDA shall be available for inspection by the Town Manager or the Town Manager's designee. The DBDA agrees that records of its past use of MSD funds and of all disbursements of any funds will be maintained by it for a period of no less than seven years, and upon request such books and records will be made available to the Town or its representative for inspection. The DBDA shall keep such full and detailed accounts as may be necessary for proper financial management under this Agreement, and the accounting methods shall be satisfactory to the Town. Upon request, the DBDA will turn over all financial records governing the use of MSD funds to the Town for storage and eventual destruction.
13. **Indemnity:** The DBDA shall indemnify and reimburse the Town for any misuse by it of funds which results in the assertion of liability against the Town. The DBDA hereby releases, acquits and forever discharges the Town, its agents, officers and employees, from any claims, demands, costs, lost of services, expenses, compensation, liabilities and obligations, suits at law or equity, including claims or suits for contribution and/or indemnity of whatever nature and all consequential damages resulting from or on account of its use of non-MSD funds, and it hereby agrees to indemnify and defend the Town from any claims brought as a result of its use or misuse of said funds.
14. **Insurance:** The DBDA shall maintain sufficient liability insurance coverage to satisfactorily compensate any person for injury to a person or property caused by the operation of DBDA's programs and/or services paid in whole or part with non-MSD funds. The DBDA agrees that should the Town determine, in its sole discretion, that the DBDA does not maintain adequate liability insurance to satisfactorily protect itself and its participants pursuant to this paragraph, the DBDA will promptly increase its coverage to the level determined necessary by the Town.
15. **Lobbying:** The DBDA will use no funds for purposes of local, state, or legislative advocacy or lobbying, or to attempt to influence the legislative process at the local, state or federal level. Likewise, no funds will be used to carry on any religious or political activities, or to attempt to influence the outcome of any public election.
16. **Default:** If the DBDA defaults in the performance of any of its duties under this Agreement, all of which are deemed material, the Town may terminate the Agreement after affording the DBDA prior notice and a reasonable opportunity to cure its default. On the

date specified in any such notice of default for the DBDA to cure its default, should the default not be cured, this Agreement shall terminate. In the event of repeated violation of this Agreement, the Town may elect to terminate the Agreement without any further chance to cure the violation.

17. **Modification of Agreement, Merger:** This Agreement contains all of the terms and conditions agreed upon by the Town and the DBDA. All discussions between them have been merged into this Agreement, and there are no oral terms or conditions agreed upon by the parties hereto which are not contained in this written Agreement. There shall be no modification of this Agreement unless the modification is in writing and signed by both parties.
18. **Waiver:** The Town's failure to strictly enforce any of its rights under this Agreement shall not constitute a waiver of such rights, and the parties agree that this provision may itself not be waived by the conduct of the parties, but only by a written instrument executed by each.
19. **Relationship of Parties:** Each party shall be considered an independent contractor in relation to the other, and neither shall be construed to be an agent or representative of the other party except as agreed upon by both parties and approved by the Boone Town Council. Therefore, neither party shall have any liability to a third party for the acts or omissions of the other party. In addition, neither party nor any of its employees, agents, or contractors shall be deemed to be employees or agents of the other party. Neither party nor any of that party's employees, agents or contractors shall be entitled to compensation for services, worker's compensation or employee benefits from the other party by virtue of this Agreement or actions taken in furtherance of the Agreement.
20. **Assignments:** The DBDA shall not assign any of its duties under this Agreement or its right to compensation from the Town to any other person or entity without the written consent of the Town, but the Town shall have no responsibility, express or implied, to approve any proposed assignment.
21. **Force Majeure:** In the event that either party shall be interrupted or delayed in completing performance of its obligations hereunder by an act of God or any other occurrence which is wholly beyond the control of the parties hereto, then it shall be excused from such performance for such period of time as is reasonably necessary after such occurrence to remedy the effects thereof.
22. **Partial Invalidity:** If any term, covenant, condition or provision of this Agreement shall, to any extent, be held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the Agreement shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law. Any provision or part of the Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the parties, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

23. **Headings and Construction of Agreement:** The headings used in this Agreement have been prepared for the convenience of reference only and shall not control, affect the meaning, or be taken as an interpretation or any provisions of this Agreement. This Agreement has been prepared on the basis of mutual understanding of the parties and shall not be construed against either party by reason of such party being the drafter hereof.
24. **Entirety of Agreement:** This Agreement supersedes any and all other Agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof and contains all of the covenants and Agreements between the parties with respect to said matter. Each party to this Agreement acknowledges that no representations, inducements, promises, or Agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, and that no other Agreement, statement, or promise not contained in this Agreement shall be valid or binding.
25. **Governing Law and Venue:** This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina, and venue of any dispute between the parties shall be in Watauga County, North Carolina.
26. **Execution:** Each party represents and warrants to the other that all necessary authorizations and approvals required for execution and performance of this Agreement have been given and obtained, and that the undersigned individual is duly authorized to execute this Agreement and bind the party for which it signs.
27. **Notices:** All notices, requests, demands, and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, to the following addresses:

If to the Town, to: John Ward
Town Manager
Town of Boone
P.O. Drawer 192
Boone, NC 28607

If to the DBDA, to: President
The Downtown Boone Development Association, Inc.
P.O. Box 362 DTS
Boone, NC 28607

IN WITNESS WHEREOF, the parties have executed this Agreement in duplicate originals, and agree to all of the terms and conditions set forth above, the day and year first above written.

Town of Boone, by

Rennie Brantz, Mayor

Attest: _____ (Seal)
Town Clerk, Town of Boone

Downtown Boone Development Association, Inc., by

President

Attest: _____ (Seal)
Secretary, Downtown Boone Development Association, Inc.

**AGREEMENT BETWEEN TOWN OF BOONE
AND THE DOWNTOWN BOONE DEVELOPMENT ASSOCIATION, INC.**

THIS AGREEMENT (“Agreement”) is entered into this 21st day of June, 2018, by and between the TOWN OF BOONE, a North Carolina municipality (hereafter referred to as “the Town”) and the DOWNTOWN BOONE DEVELOPMENT ASSOCIATION, INC., a North Carolina non-profit membership corporation (hereafter referred to as “the DBDA”), collectively referred to as “the Parties.”

W I T N E S S E T H:

THAT, WHEREAS, the Town is a municipal corporation organized pursuant to the laws of the State of North Carolina and located in Watauga County, North Carolina; and,

WHEREAS, the Town has established a Municipal Service District pursuant to N.C. Gen. Stat. § 160A-535, et seq., (hereafter “the MSD”) from which it collects a Municipal Service District tax the authorized purposes of which are identified under State law; and,

WHEREAS, whereas, the Town provides services, facilities, functions, and promotional and developmental activities in the MSD with its own forces pursuant to N.C. Gen. Stat. § 160A-536(d); and,

WHEREAS, the Town is a participant in the North Carolina Main Street Program administered by the North Carolina Department of Commerce (hereafter, “the Main Street Program”); and,

WHEREAS, the DBDA is a North Carolina Non-Profit Corporation, duly organized pursuant to the laws of the State of North Carolina to promote, encourage, and assist in the revitalization and economic health and stability of the Town’s Municipal Service District (the “MSD”);

WHEREAS, the Town provides assistance to the DBDA with its own forces, and seeks the guidance of the DBDA with respect to the expenditure of funds derived from the MSD tax (hereinafter “MSD funds”); and

WHEREAS, the Town and the DBDA wish to reduce to writing their understanding and agreement as to the governance of the DBDA, its activities relating to the MSD, and related matters;

NOW, THEREFORE, for and in consideration of the mutual promises and covenants set forth herein, and other good and valuable consideration passing from each party to the other, the receipt of which is hereby respectively acknowledged by each of the parties hereto, the parties agree and contract as follows:

1. **Term:** The term of this Agreement shall be one year, commencing on July 1, 2018, and ending June 30, 2019.

2. **Governance:** Consistent with its Bylaws, one-half of the members of the Board of Directors of the DBDA shall be elected by the membership of the DBDA and one-half of the members shall be appointed by the Boone Town Council. Service of the new board shall begin at the first meeting of the directors following the annual meeting of the members. Should the Town Council also appoint one or more of its members as liaison to the DBDA, the DBDA board of directors shall include them in their meetings and deliberations, but they shall be considered as *ex officio*, non-voting members of the Board.
3. **Administration:** The parties acknowledge that the executive director of the DBDA is a Town employee, subject to the Town's Personnel Policy and working under the supervision of the Town Manager or his designee.
4. **Expenditure of non-MSD Funds:** The DBDA may expend its own (non-MSD) funds so long as such expenditures are accounted for using methods that satisfactorily assure their proper use and are made in accordance with pertinent law and the DBDA's own by-laws.
5. **Recommendations by DBDA to Town Council as to Expenditure of MSD Funds:** The DBDA will make recommendations to the Town Council as to expenditure of MSD funds, to ensure that:
 - A. To the extent feasible and taking into consideration the limits of the DBDA's ability to know all changes which take place within the MSD, the DBDA's Web site is updated at least quarterly and MSD directory signage is updated at least annually.
 - B. Regular office hours for public and membership access to the DBDA director or his or her designee are maintained in accordance with the hours reflected on the DBDA Web site, subject to the review and approval of the Town Manager (who must oversee the hours of employees and Town's compliance with wage and hour laws, etc.).
 - C. MSD funds are used to benefit only the MSD area and are used to benefit the entire range of stakeholder categories (i.e. service providers and other non-retail establishments) and all MSD locations (e.g. less-traveled streets and outer boundary edges).
 - D. At least 30% of MSD funds are utilized for tangible improvements to the MSD, such as streetscape improvements.
 - E. MSD funds will not be authorized for sign or façade grants until a policy is developed and recommended by the DBDA, and adopted by the Town Council, which ensures comprehensive notice of the availability of such grants and which contains criteria for determining which proposed façade or sign improvements or replacements benefit the MSD as a whole and not simply the individual property owner or business.

- F. Remaining MSD funds may be utilized, if desirable, to create, coordinate, and administer District revitalization projects which provide for services or functions, such as additional garbage pick-up, which are in addition to or to a greater extent than those provided or maintained by the Town for the entire town; to support any duly-adopted plan by the Town aimed at improving the MSD, which is specifically authorized herein; or, for such other activities which benefit the MSD, work toward its revitalization or preservation, or otherwise enhance the MSD area and help the businesses of the MSD thrive.

The DBDA's recommendations shall address activities such as:

1. Promotional and development activities, such as sponsoring festivals and markets in the MSD, promoting business investment in the MSD, helping to coordinate public and private actions in the MSD, and developing and issuing publications on the MSD designed to improve the economic well-being of the MSD.
2. Administration of any MSD revitalization project specifically requested by the Town.
3. Creation, maintenance and administration of a clearinghouse for information concerning the availability of properties within the MSD for purchase or rent, by creating, maintaining and administering a repository of such information to which MSD property owners may contribute, as they may wish, and which shall be in a format which will make it broadly available to the public and to people potentially interested in investment in the MSD.
4. Coordinating and participating in activities, and maintaining and providing all information requested or required by or of the Town or by the North Carolina Department of Commerce in order for the Town to continue to participate in good standing in the North Carolina Main Street Program and for the Town to derive all available benefits from its continued participation in the Main Street program.

6. **Commitments by DBDA:** The DBDA agrees that:

- A. Should the DBDA hire employees with non-MSD funds, it will maintain and provide to the Town Manager a comprehensive personnel policy which addresses and ensures appropriate controls for expenditure of funds and procedures for the supervision and discipline of staff, with personnel actions up to and including dismissal authorized.
- B. No later than 10 days after its receipt, provide the Town Manager and Town Council a full copy of any audit which it obtains. Should the DBDA obtain an audit, it shall be prepared by an independent auditing firm having no conflicts of interest and selected by the DBDA board of directors after a general solicitation to

appropriate accounting firms in the region, including an Audited Income Statement with detailed expense categories, not just one generic “downtown redevelopment” expense item. The audit must disclose itemized expenditures by funding source.

- C. At least five days before each meeting of the DBDA board of directors, the DBDA will post on its Web site and provide notice, in accordance with its duly adopted by-laws, of the meeting to its membership, Board members, Town Council members and Town Manager, along with an agenda and a copy of the draft minutes from the previous meeting.
 - D. The DBDA will provide the Town Manager with a copy of the organization’s Form 990 promptly after it is prepared.
 - E. The DBDA will maintain a written policy requiring that a fund accounting system is created and maintained that ensures that any non-MSD funds are used only in accordance with State law and this contract, to the extent applicable.
 - F. The DBDA will maintain written policies ensuring that non-MSD funds are properly used in accordance with its own by-laws and in accordance with applicable law.
 - G. The DBDA will report to the Town Council the duly adopted, collective views of its full membership and its Board of Directors as to those actions and policies which the Town may consider within the District to improve the District’s economic well-being.
7. **Activities to Serve Entire Municipal Service District:** All activities of the DBDA shall be undertaken in such manner, insofar as possible, as to provide benefits to and throughout the entire District.
8. **Compliance with Laws:** The DBDA shall comply with all pertinent federal, State, county and Town laws, regulations and ordinances, including but not limited to all North Carolina and federal laws relating to the operation of non-profit membership corporations, those laws which govern the conduct of the annual meetings of its membership and the selection of its directors and officers. In addition, and not by way of exclusion, in any and all its actions and activities, the DBDA shall comply with and hereby certifies its compliance with the Americans with Disabilities Act, as amended, and Title VII of the Civil Rights Act of 1964, as amended, and should it hire employees of its own, the Fair Labor Standards Act, as amended, the Occupational and Health Safety Act, as amended, the North Carolina Employment Security Act, as amended, and the North Carolina Worker’s Compensation Act, as amended, to the extent each such law applies to the DBDA or any of its activities.
9. **Compliance with its By-Laws and Organizational Reporting to the Town:** The DBDA will operate and act in accordance with its duly adopted by-laws, including but not limited to the provisions which govern the conduct of the annual meetings of its membership, the notice and quorum requirements for meetings of its board of directors, the selection of its directors and officers, and its prohibition against legislative advocacy. The DBDA shall

seasonably provide the Town with its current by-laws and a roster of its current board of directors and officers, including their names, addresses, terms and class of membership, and it shall seasonably notify and provide a copy to the Town of any changes in its by-laws or in its board of directors or officers. The DBDA shall invite and include in its membership all property owners in the MSD and it shall provide a mechanism or opportunity for all businesses and residents within the MSD to be represented in the DBDA or have their voices heard as policies are formulated and recommended. Should the DBDA's corporate status be revoked by the North Carolina Secretary of State, or should the DBDA's non-profit status be revoked by the United States Internal Revenue Service or otherwise, the DBDA shall immediately notify the Town, and the Town Council may in its discretion declare this Agreement immediately terminated.

10. **Reporting on its Activities:** At least quarterly during the term of the Agreement, and at such additional times as may be requested by the Town, the DBDA shall report to the Town Council on its activities. Said report shall include at a minimum descriptions of activities of the DBDA which have been undertaken since the prior report and those activities which are planned for the future.
11. **Financial Responsibilities:** The DBDA shall develop and recommend to the Town Council a proposed budget for the expenditure of MSD funds. The proposed budget shall include an amount sufficient to pay, at a minimum, one-half of the salary and fringe benefits of the Town employee who serves as executive director of the DBDA. The proposed budget shall be presented to the Town Council for its consideration by a date designated by the Town Manager, which date gives the Town Finance Director an adequate opportunity to review and evaluate the proposal and the Town Council an adequate opportunity to review the recommendation and propose such changes as it may determine are desirable. Should the Town Council be unwilling to accept the proposal of the DBDA in any material way, an effort shall be undertaken for the parties to discuss their differences before a final budget is approved by the Town.

The DBDA shall maintain its financial accounts for non-MSD funds and operate in accordance with generally accepted accounting principles. Financial information shall be maintained and provided, if requested, in a form acceptable to the Town and shall include, among other things, a detailed accounting for all funds from all non-MSD sources received or collected by the DBDA during the reporting period. In addition, the DBDA shall provide such records, verification of the expenditure of the funds, and other such information as requested by the Town. Should the DBDA at any time be advised by a funding, taxing or other governmental entity, or by its accountants, of any misappropriation of funds from any source or of any malfeasance or misfeasance, it shall immediately report such advice to the Town. Should the DBDA itself discover or determine any wrongdoing, misappropriation, malfeasance or misfeasance, it shall immediately report such matter to the Town. The DBDA will notify the Town in writing within five days if any member of its staff is charged with or convicted of any crime involving malfeasance or misfeasance, or dishonesty in the use or handling of any DBDA funds, whatever the source, or if the DBDA itself is accused of any wrongdoing. Should the DBDA become aware of or suspicious of any embezzlement, malfeasance or misfeasance by an employee, agent, officer, director or other person connected with DBDA, of any of the DBDA's funds,

whether from this grant or elsewhere, whatever the source, it hereby commits that it will promptly report to and notify the appropriate law enforcement agency of such act, omission or suspicion.

12. **Maintenance of Records:** All records of the DBDA shall be available for inspection by the Town Manager or the Town Manager's designee. The DBDA agrees that records of its past use of MSD funds and of all disbursements of any funds will be maintained by it for a period of no less than seven years, and upon request such books and records will be made available to the Town or its representative for inspection. The DBDA shall keep such full and detailed accounts as may be necessary for proper financial management under this Agreement, and the accounting methods shall be satisfactory to the Town. Upon request, the DBDA will turn over all financial records governing the use of MSD funds to the Town for storage and eventual destruction.
13. **Indemnity:** The DBDA shall indemnify and reimburse the Town for any misuse by it of funds which results in the assertion of liability against the Town. The DBDA hereby releases, acquits and forever discharges the Town, its agents, officers and employees, from any claims, demands, costs, lost of services, expenses, compensation, liabilities and obligations, suits at law or equity, including claims or suits for contribution and/or indemnity of whatever nature and all consequential damages resulting from or on account of its use of non-MSD funds, and it hereby agrees to indemnify and defend the Town from any claims brought as a result of its use or misuse of said funds.
14. **Insurance:** The DBDA shall maintain sufficient liability insurance coverage to satisfactorily compensate any person for injury to a person or property caused by the operation of DBDA's programs and/or services paid in whole or part with non-MSD funds. The DBDA agrees that should the Town determine, in its sole discretion, that the DBDA does not maintain adequate liability insurance to satisfactorily protect itself and its participants pursuant to this paragraph, the DBDA will promptly increase its coverage to the level determined necessary by the Town.
15. **Lobbying:** The DBDA will use no funds for purposes of local, state, or legislative advocacy or lobbying, or to attempt to influence the legislative process at the local, state or federal level. Likewise, no funds will be used to carry on any religious or political activities, or to attempt to influence the outcome of any public election.
16. **Default:** If the DBDA defaults in the performance of any of its duties under this Agreement, all of which are deemed material, the Town may terminate the Agreement after affording the DBDA prior notice and a reasonable opportunity to cure its default. On the date specified in any such notice of default for the DBDA to cure its default, should the default not be cured, this Agreement shall terminate. In the event of repeated violation of this Agreement, the Town may elect to terminate the Agreement without any further chance to cure the violation.
17. **Modification of Agreement, Merger:** This Agreement contains all of the terms and conditions agreed upon by the Town and the DBDA. All discussions between them have been merged into this Agreement, and there are no oral terms or conditions agreed upon by

the parties hereto which are not contained in this written Agreement. There shall be no modification of this Agreement unless the modification is in writing and signed by both parties.

18. **Waiver:** The Town's failure to strictly enforce any of its rights under this Agreement shall not constitute a waiver of such rights, and the parties agree that this provision may itself not be waived by the conduct of the parties, but only by a written instrument executed by each.
19. **Relationship of Parties:** Each party shall be considered an independent contractor in relation to the other, and neither shall be construed to be an agent or representative of the other party except as agreed upon by both parties and approved by the Boone Town Council. Therefore, neither party shall have any liability to a third party for the acts or omissions of the other party. In addition, neither party nor any of its employees, agents, or contractors shall be deemed to be employees or agents of the other party. Neither party nor any of that party's employees, agents or contractors shall be entitled to compensation for services, worker's compensation or employee benefits from the other party by virtue of this Agreement or actions taken in furtherance of the Agreement.
20. **Assignments:** The DBDA shall not assign any of its duties under this Agreement or its right to compensation from the Town to any other person or entity without the written consent of the Town, but the Town shall have no responsibility, express or implied, to approve any proposed assignment.
21. **Force Majeure:** In the event that either party shall be interrupted or delayed in completing performance of its obligations hereunder by an act of God or any other occurrence which is wholly beyond the control of the parties hereto, then it shall be excused from such performance for such period of time as is reasonably necessary after such occurrence to remedy the effects thereof.
22. **Partial Invalidity:** If any term, covenant, condition or provision of this Agreement shall, to any extent, be held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the Agreement shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law. Any provision or part of the Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the parties, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
23. **Headings and Construction of Agreement:** The headings used in this Agreement have been prepared for the convenience of reference only and shall not control, affect the meaning, or be taken as an interpretation or any provisions of this Agreement. This Agreement has been prepared on the basis of mutual understanding of the parties and shall not be construed against either party by reason of such party being the drafter hereof.

24. **Entirety of Agreement:** This Agreement supersedes any and all other Agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof and contains all of the covenants and Agreements between the parties with respect to said matter. Each party to this Agreement acknowledges that no representations, inducements, promises, or Agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, and that no other Agreement, statement, or promise not contained in this Agreement shall be valid or binding.
25. **Governing Law and Venue:** This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina, and venue of any dispute between the parties shall be in Watauga County, North Carolina.
26. **Execution:** Each party represents and warrants to the other that all necessary authorizations and approvals required for execution and performance of this Agreement have been given and obtained, and that the undersigned individual is duly authorized to execute this Agreement and bind the party for which it signs.
27. **Notices:** All notices, requests, demands, and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, to the following addresses:

If to the Town, to: John Ward
Town Manager
Town of Boone
P.O. Drawer 192
Boone, NC 28607

If to the DBDA, to: President
The Downtown Boone Development Association, Inc.
P.O. Box 362 DTS
Boone, NC 28607

IN WITNESS WHEREOF, the parties have executed this Agreement in duplicate originals, and agree to all of the terms and conditions set forth above, the day and year first above written.

Town of Boone, by

Rennie Brantz, Mayor

Attest: _____ (Seal)
Town Clerk, Town of Boone

Downtown Boone Development Association, Inc., by

President

Attest: _____ (Seal)
Secretary, Downtown Boone Development Association, Inc.

Communication: Updated Agreement with the Town of Boone for 2018-2019 (Organization)



8450 Garvey Drive
Raleigh, NC 27616
800-332-6798
(919)954-0200

PRICE QUOTE

DATE	ESTIMATE NO.
5/16/2018	20000

Bill To:
Town of Boone Attn: AP PO Drawer 192 Boone, NC 28607

Ship To:
Town of Boone Attn: Brittney Clark 567 West King St. Boone, NC 28607 828-268-6283

P.O. NO.	REP	County
	PH	Watauga

ITEM	DESCRIPTION	QTY	COST	TOTAL
Custom Banner	30"x64" Custom Single "Additional Shopping And Dining Left - Right Directional" banners with same image on front and back, screen printed on seagrass green sunbrella fabric with 1 ink, white. Mock Up dated 5-17-18 edit 6	3	153.00	459.00T
Screen Charge	Screen Charge	1	90.00	90.00T
UPS/Shipping	Shipping and Handling Charges	1	30.00	30.00T
Discount	Discount on Order 20% - Per Phil Discount entire job.		-115.80	-115.80
	NC 6.75% Sales Tax		6.75%	31.27

FREIGHT IS ADDITIONAL
Please contact Tina Griffin if you have any questions.
All orders paid with credit card, debit card or bill pay card will have a 3.5% service fee added to the final total.

TOTAL

\$494.47

SIGNATURE _____

Phone #	Fax #	E-mail	Web Site
919-954-0200	919-954-0203	Tina@MoscaDesign.com	www.moscadesign.com

Communication: Wayfinding Banners (Promotion)



QTY: 3
SAME IMAGE FRONT AND BACK

Boone
PROOF - 6
5/17/18

SIZE: 30" x 64"
FABRIC: Seagrass Green
INKS: White



8450 Garvey Drive
Raleigh, NC 27616
Phone: (919) 954-0200
Fax: (919) 954-0203
Toll Free: 800-332-6798

APPROVAL SIGNATURE

TAKE NOTHING FOR GRANTED, PLEASE CHECK PROOF CAREFULLY.
Illustrations are a reasonable representation of ink colors on banner fabrics.
All monitors display differently, therefore a free color match sample is available upon request. We are not responsible for any errors after approval.