

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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

This Contract is hereby made and entered into this 16th day of November, 2009, by and between the NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, (the "Agency") and the TOWN OF BLACK MOUNTAIN (the "Grantee") (referred to collectively as the "Parties").

1. **Contract Documents:** This Contract consists of the Grant Contract and its attachments, all of which are identified by name as follows:

- (1) Grant Contract No. 2737
- (2) General Terms and Conditions (Attachment A)
- (3) Grantee's Response to Agency's RFP (Attachment B)
- (4) Federal Certification Regarding Lobbying (Attachment C)
- (5) Federal Certification Regarding Debarment (Attachment D)
- (6) Federal Certification Regarding Drug-Free Workplace (Attachment E)
- (7) Applicable Grant Administrative and Programmatic Conditions (Attachment F)

The Agency's Request for Proposals (RFP) is by reference made a part of this contract and is on file with the Division of Parks and Recreation. This RFP and the documents referenced above constitute the entire agreement between the Parties and supersede all prior oral or written statements or agreements. The Parties may enter into Contract Amendments in accordance with the General Terms and Conditions as described in Attachment A.

2. **Precedence Among Contract Documents:** In the event of a conflict between terms of the Contract Documents, the term in the Contract Document with the highest relative precedence prevails. The order of precedence is established by the order of documents in Paragraph 1, above, with the first-listed document having the 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.

3. **Contract Period:** This Contract shall be effective on the 16th day of November, 2009 and shall terminate on the 15th day of November, 2011.

4. **Service Period:** The Grantee begins providing services on the 16th day of November, 2009. The Grantee undertakes and completes its services in a sequence that assures expeditious completion in light of the purposes of this agreement. Grantee completes its services on the 15th day of November, 2011.

5. **Grantee's Duties:** The Grantee provides the services as described in Attachment B: contract for construction of 2505 linear feet of paved trail that connects Recreation Park to public transportation line on Blue Ridge Road through the Clevenger Property; and, in accordance with the approved budget in Attachment B.

6. **Agency's Duties:** The Agency shall pay the Grantee in the manner and in the amounts specified in the Contract Documents.

The total amount paid by the Agency to the Grantee under this Contract shall not exceed SEVENTY FIVE THOUSAND DOLLARS (\$75,000.00).

This amount consists of:

Type of Funds	Funding Source	CFDA No.
Federal Grant	2009 Recreational Trails Program Grant	23.219C

Accounting Code Information:

Dollars	GL Company	GL Account	GL Center
\$75,000.00	1612	536425	2803

The Grantee's matching requirement is **\$18,750.00**, which shall consist of:

	In-Kind	\$
√	Cash	\$18,750.00
	Cash and In-Kind	\$
	Cash and/or In-Kind	\$
	Other / Specify:	\$

The contributions from the Grantee shall be sourced from non-federal funds. The total contract amount is **\$93,750.00**.

7. **Reversion of Unexpended Funds:** Any unexpended grant funds shall revert to the Agency upon termination of this Contract.
8. **Reporting Requirements:** Any Grantee receiving at least \$15,000 but less than \$500,000 in state funds from the Agency within any fiscal year is required to file with each funding state agency a sworn accounting of receipts and expenditures of state funds in the format approved by the State Auditor. This accounting must be attested to by the Grantee fiscal officer and one other authorizing officer of the Grantee. This accounting must be filed with each funding state agency within six months after the end of the Grantee's operating year. If the Grantee receives STATE funds of \$500,000 or more during its fiscal year, it must file with the State Auditor and each funding agency its audited financial statements in accordance with the standards and formats prescribed by the State Auditor in Memorandum NGO-2 "Grantee Audit Reports." If the Grantee receives \$500,000 or more in FEDERAL awards during its fiscal year from any source, including federal funds passed through the State or other grantors, it must obtain a single audit or program-specific audit conducted in accordance with the Federal Office of Management and Budget's Circular A-133 "Audits of States, Local Government and Non-Profit Organizations." If the above amounts are not met by one single funding agency, but rather any combination of funding agencies, then the appropriate reports shall be sent to the Office of the State Auditor and to the Agency. Also, a corrective action plan for any audit findings and recommendations must be submitted along with the audit report or within the period specified by the applicable OMB Circular or Memorandum.
9. **Payment Provisions:** The Agency reimburses the Grantee for actual allowable expenditures with the Agency retaining a minimum of ten percent (10%) of the Agency's funds until all required activities are completed and reports/deliverables are received and accepted by the Agency. An allowable expenditure is defined as one associated with work performed to meet the milestones that have been addressed during the specific reporting period. The Agency may withhold payment on invoices when the Grantee fails to accomplish the milestones stated in Attachment B.
10. **Invoices:** The Grantee submits invoices to the Agency Contract Administrator at least quarterly. The final invoice must be received by the Agency within 45 days after the end of the contract period.

Amended or corrected invoices must be received by the Agency's Office of the Controller within six months after the end of the contract period. The Agency will not pay any invoice received more than 6 months after the end of the effective period.

- 11. Contract Administrators:** Each Party submits notices, questions and correspondence to the other Party's Contract Administrator. The name, address, telephone number, fax number, and email address of the Parties' initial Contract Administrators are set out below. Either Party may change the name, address, telephone number, fax number, or email address of its Contract Administrator or Principal Investigator or Key Personnel by giving timely written notice to the other Party.

Any changes in the scope of the contract which increase or decrease the Grantee's compensation are not effective until approved in writing by the Agency's Head or Authorized Agent.

Agency Contract Administrator	Grantee Contract Administrator
DENR Parks & Recreation, State Trails Program Attention: Vincent Newman Brooks 1615 Mail Service Center Raleigh, NC 27699-1615 Telephone: 919-715-1846 Email: Vincent.Newmanbrooks@ncmail.net	Town of Black Mountain Attention: Jim Orr 101 Carver Avenue Black Mountain, NC 28711-2711 Telephone: 828-669-2052 Email: jim.orr@townofblackmountain.org

- 12. Grantee Principal Investigator or Key Personnel:** The Grantee shall not substitute the Principal Investigator or key personnel assigned to the performance of this contract without prior approval by the Agency Contract Administrator.
- 13. Supplantation of Expenditure of Public Funds:** The Grantee assures that funds received pursuant to this Contract shall be used only to supplement, not to supplant, the total amount of federal, state and local public funds that the Grantee otherwise expends for recreational trail services and related programs. Funds received under this Contract shall be used to provide additional public funding for such services; the funds shall not be used to reduce the Grantee's total expenditure of other public funds for such services.
- 14. Disbursements:** As a condition of this Contract, Grantee acknowledges and agrees to make disbursements in accordance with the following requirements:
- a. Implement adequate internal controls over disbursements;
 - b. Pre-audit all vouchers presented for payment to determine:
 - Validity and accuracy of payment
 - Payment due date
 - Adequacy of documentation supporting payment
 - Legality of disbursement
 - c. Assure adequate control of signature stamps/plates;
 - d. Assure adequate control of negotiable instruments; and
 - e. Implement procedures to insure that account balance is solvent and reconcile the account monthly.
- 15. Outsourcing:** The Grantee certifies that it has identified to the Agency all jobs related to the Contract that have been outsourced to other countries, if any. Grantee further agrees that it will not outsource any such jobs during the term of this Contract without providing notice to the Agency and obtaining written approval from the Agency Contract Administrator prior to outsourcing.

16. **Signature Warranty:** The undersigned represent and warrant that they are authorized to bind their principals to the terms of this agreement.

IN WITNESS WHEREOF, the Grantee and the Agency execute this agreement in two (2) originals, one (1) of which is retained by the Grantee and one (1) of which is retained by the Agency, the day and year first above written.

TOWN OF BLACK MOUNTAIN

NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
Dee Freeman, Secretary

Contractor's Signature	Department Head's Signature or Authorized Agent
Typed or Printed Name	Michael G. Bryant Typed or Printed Name
Title	Director, Division of Purchase and Services Title

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 G.S. 143-6.2(b): 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 N.C.G.S. 143-6.2(a)(1): 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 N.C.G.S. 143-6.2(a)(3): 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 and (ii) 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 N.C.G.S. 143-6.2(b), 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 G.S. 143-6.2(b): 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 G.S. 143-6.2(a)(2): A municipal corporation that has the power to levy taxes, including a consolidated city-county as defined by G.S. 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 insures 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.

Default and Termination

Termination by Mutual Consent: Either party may terminate this agreement upon thirty (30) 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 and 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 Environment and Natural Resources 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 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 has access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions in accordance with N.C.G.S 147-64.7. Additionally, as the State funding authority, the Agency has access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions.

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 five 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 five 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 five-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 five-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 Agency. Upon approval of the Agency Contract Administrator, such equipment may be retained by the Grantee for the time the Grantee continues to provide services begun under this contract.

updates about the use of lobbyists if material changes occur in their use.

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 G.S. 105-164.14; and (b) exclude all refundable sales and use taxes from all reportable expenditures before the expenses are entered in their 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

9. Amount of RTP Funds Requested: \$ 75,000
10. Complete this sentence in 10 words or less. We will use the RTP award for constructing a trail from Recreation Park to Blue Ridge Road.
11. Check the following phrases that best describes your trail project
- New Trail Construction
 Extension of an existing trail
 Trail Maintenance or Trail Restoration
 Trail Facilities
 Land Acquisition for this Trail Project.
12. User Trail User Groups are or will be allowed use of this trail. (Please check all that apply)
- Walker/Hikers
 Equestrians
 Bicyclers
 Off-Highway Vehicles
 Canoeists/Kayakers
 Persons with Disabilities
13. Describe in feet or miles (if any) the amount of trail to be built or maintained: We will construct 2504 linear feet of an asphalt trail.
14. List the facilities (if any) that are to be acquired or built with this grant: No facilities will be built with this grant.
15. Provide acreage (if needed) and reason you need to acquire land for this trail project: N/A
16. List any existing facilities (if any) that are currently available to support this new trail or existing trail project (trail head parking areas, restrooms, drinking water, etc.): Parking and restrooms are available at Recreation Park on one end of the trail and at the Grey Eagle Indoor Soccer Arena at the other end of the trail near Blue Ridge Road.
17. The proposed trail project provides a link in or segment in (check all that apply)
- a statewide trail plan (NC's Mountains-to-Sea Trail)
 a regional multi-county trail plan (2 or more counties)
 a joint city-county/county-county/city-city trail plan
 a local Park and a Greenway
 (example: a local park and a greenway .)
 park specific (within boundary of an existing park)

List by title the plan in which your trail is included: The Black Mountain Greenways Master Plan, Black Mountain Pedestrian Master Plan, and the Black Mountain Recreation and Parks Comprehensive Master Plan.

18. The proposed trail project

- will be managed and maintained by applying agency's regular staff
 will be managed and maintained solely by volunteers
 Other: (Define)

19. The trail project will be open to the general public

- seven days a week, during daylight hours
 during limited days and hours
 by invitation/appointment only
 Other: _____

20. Provide information about past RTP grants received including the year grant was awarded and very brief description of project:

Year: N/A Award Amount:
 Description:

Year: N/A Award Amount:
 Description:

21. Applicant response - If you wish to explain/clarify your response to any of the above questions, please indicate the question by number and explain briefly:

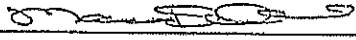
NORTH CAROLINA'S 2009 RECREATIONAL TRAILS PROGRAM
APPLICATION SIGNATURE PAGE

"On behalf of the applicant, I hereby certify the information contained in the attached application is true and correct. I understand this application will be rated on the basis of the information submitted and the submission of incorrect data or an incomplete application can result in this application being eliminated from consideration for funding."

"I hereby certify the applicant will comply with all applicable local, state and Federal laws and regulations."

"I hereby certify the availability of a minimum of 25% of the requested Recreational Trails Program grant amount as noted in this application."

Signed this 31st day of December 2008

By 

Title Marcis D. Oniel, Town Manager

Attested by _____

Note: Non-profit organizations applying for RTP funding for a project located on lands managed by a governmental agency must have the approval of the chief executive officer of the affected land managing agency. This approval is to be represented by the signature of the chief executive officer below.

Approved this _____ day of _____

By _____

Title _____

For the _____

(Affected Agency)

**2009 RECREATIONAL TRAILS PROGRAM
SCOPE OF WORK FORM**

Agency/Organization Name: Town of Black Mountain

List Your Agency/Organization's Fiscal Year: July 1- June 30

Project Title: Community Garden Trail

- A. Project Description (Brief – I sentence please): The Town of Black Mountain will contract for construction 2504 linear feet of paved trail that connects Recreation Park to a public transportation line on Blue Ridge Road through the Clevenger Property (adjacent to the Black Mountain Community Garden).

Note: Contractor cannot begin work until a fully executed contract is on file with the Contractor and the Department of Environment and Natural Resources, Division of Purchase and Services.

- B. Anticipated Start and Ending Date of this Project: Beginning in Spring 2010 and to be completed by September 2010.

Should your agency or organization be awarded this RTP grant, you are expected to complete this project within two years from the date of award of a fully executed contract with the Department of Environment and Natural Resources. If there has been no progress within the 2-year contract period, your contract will not be extended.

- C. Estimated Project Cost And Matching Cost Information

1. Amount of RTP Grant Requested	\$ <u>75,000</u>
2. Cash Match	\$ <u>18,750</u>
3. In-Kind Match Labor, Services, Land and Materials	\$

Note: The total of lines 2 and 3 should at a minimum Equal 25% of the RTP grant requested listed on line 1 above.

4. Total Project Cost (This amount is the total of lines 1, 2 and 3 above)	\$ <u>93,750</u>
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Note: The Total Project Cost must equal the amount Listed as the Total Project Costs shown in Section D below.

D. Project Deliverables, Cash Match and In-Kind Services

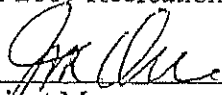
2009 RECREATIONAL TRAILS PROGRAM SCOPE OF WORK PROJECT DELIVERABLES				
Project Deliverable	Amount Of Estimated Cost To Be Paid With RTP Funds	Amount Of Estimated Costs To Be Paid With Grantee's Cash Match	Total Estimated Cost For Each Listed Deliverable (RTP + Cash Match)	List Below The Estimated Date Of Completion For Each Deliverable
Project Deliverable Information (define item and quantity such as in numbers, feet or miles)				
#1 Project Deliverable Contract construction of 2504 linear feet of new asphalt trail.	\$75,000	\$18,750	\$93,750	September 2010
#2 Project Deliverable				
#3 Project Deliverable				
#4 Project Deliverable				
#5 Project Deliverable				
Totals	Total RTP Funds	Total Cash by Grantee	Total Cost of Deliverables	
Show Totals on this line	\$75,000	\$18,750	\$93,750	
	Note: This Figure Must Equal The Figure Listed On Schedule A Page 1 -- Item C, Number 1	Note: This Figure Must Equal The Figure Listed On Schedule A Page 1 -- Item C, Number 2		

2009 RECREATIONAL TRAILS PROGRAM SCOPE OF WORK VALUE OF NON CASH – IN-KIND LABOR, SERVICES AND MATERIALS		
Value of Non Cash - In-Kind Services (define the hours or services to be provided) N/A	List Value of Non-Cash – Inkind Services in this Column	
Value of Land Acquired for this RTP Grant Project	N/A	
General Labor Valued at \$9.00 Per Hour – Provide the estimated number of volunteer hours to be performed and describe the work to be accomplished by volunteers on the project to be funded by this RTP Grant	N/A	
Trail Construction and Maintenance Supervision Valued at \$12.00 Per Hour - Provide the estimated number of volunteer hours of supervision work to be performed and describe the work to be accomplished by volunteers on the project to be funded by this RTP Grant	N/A	
Excavating and Loading Equipment Operators Valued at \$14.00 Per Hour - Provide the estimated number of volunteer hours of equipment operator work to be performed and describe the work to be accomplished by volunteers on the project to be funded by this RTP Grant	N/A	
Fair Market Value of Donated Specialized Services, e.g., Carpenters and Masons – Provide a list of specialized services expected to be donated, the approximate number of hours, fair market value of these services and what work will be performed to help accomplish this RTP grant project.	N/A	

<p>Value of Donated Equipment and Operator – List the expected equipment to be donated for use on this project, the approximate hours, fair market value of these services and what work will be performed to help accomplish this RTP grant project.</p>		
<p>Value of Donated Materials – List materials you expect to be donated and the approximate value of these materials.</p>		
<p>Total of All Non-Cash In-Kind Services</p>	<p>List Totals Here \$</p>	
<p>TOTAL PROJECT COSTS - Add all deliverable costs (Bottom of Schedule A Page 2) and the value of all non-cash in-kind services (Above). This total shall equal or exceed the awarded grant amount by 25% and be the same as listed on page 1 of this Scope of work form line C-4).</p>	<p>List Total Project Costs Here \$</p>	

E. REQUIRED SIGNATURE

This Scope of Work describes to the best of our knowledge, the project we will complete with this 2009 Recreational Trials Program grant.

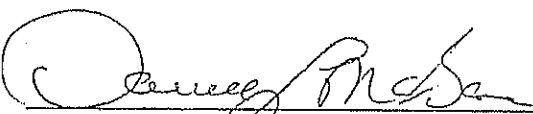


 Project Manager

1/2/09

 Date

This Scope of Work accepted as the description of the project that will be accomplished by the grant recipient when using 2009 Federal Recreational Trials Program funds.



 State Trails Coordinator

7-13-09

 Date

SCHEDULE D

RECREATIONAL TRAILS PROGRAM
FEDERAL ASSURANCES - COMPLIANCE FORM

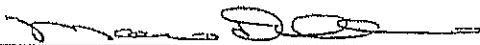
As the duly authorized representative of the applicant, I certify that the applicant:

Name of Applicant) Town of Black Mountain

1. Will comply with the provisions of Title H, Americans with Disabilities Act of 1991.
2. Will comply with Section 1302 (e) (2) (C) of the RTP that prohibits the use of grant funds to accommodate motorized use on trails that have been predominately used by non-motorized trail users prior to May 1, 1991.
3. Agrees that the construction of new trails crossing Federal lands in compliance with all applicable laws, including the National Environmental Policy Act, the Forest and Rangeland Renewable Resources Planning Act and the Federal Land Policy and Management Act.
4. Agrees that construction of any recreational trail on National Park Service or National Forest Service lands for motorized uses will be on lands proposed for such uses and will not be on lands in designated wilderness areas and that such construction is otherwise consistent with the management direction is such approved land and resources management plan.
5. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
6. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
7. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
8. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
9. Will comply with all Federal statutes relating to non-discrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the

Education Amendments of 1972, as amended (20 U.S.C. ' ' 1681-1683, and 1685-1686) which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. ' 794) which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination act of 1975, as amended (42 U.S.C. ' ' 6101-6107) which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 93-255), as amended relating to non-discrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to non-discrimination on the basis of alcohol abuse or alcoholism; (g) ' ' 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. ' 3601 et seq.), as amended relating to non-discrimination in the sale, rental or financing of housing; (i) any other non-discrimination provisions in the specific statute(s) under which application for Federal assistance is being made, and (j) the requirements on any other non-discrimination statute(s) which may apply to the application.

10. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and Federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
11. Will comply with the provisions of the Hatch Act (5 U.S.C. ' ' 1501-1509 and 7324-7328) which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
13. Will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
14. Will comply with all Federal environmental laws and regulations.
15. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1986.
16. Will comply with all applicable requirements of all other Federal laws, Executive Orders, regulations and policies governing this program.

Signature of Authorizing Official 

Title Marcia D. Ornel, Town Manager

Date 12.31.08

Schedule H

Federal Certification Regarding Lobbying
(Required of Governmental Agencies and Non-Profit Organizations)

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting 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 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

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting 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 this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Handwritten Signature]
Signature

Marcia D. Onical, Town Manager
Title

Town of Black Mountain
Agency/Organization

12.31.08
Date

(Certification signature should be same as Contract signature.)

Schedule I

FEDERAL CERTIFICATION REGARDING DEBARMENT AND SUSPENSION (Required of Governmental Agencies and Non-Profit Organizations)

The undersigned certifies, to the best of his or her knowledge and belief, that we are complying with all provisions of TITLE 49 CFR 29 —TRANSPORTATION, Sec. 29.200 Debarment or suspension.

(a) Primary covered transactions. Except to the extent prohibited by law, persons who are debarred or suspended shall be excluded from primary covered transactions as either participants or principals throughout the Executive Branch of the Federal Government for the period of their debarment, suspension, or the period they are proposed for debarment under 48 CFR part 9, subpart 9.4. Accordingly, no agency shall enter into primary covered transactions with such excluded persons during such period, except as permitted pursuant to Sec. 29.215.

(b) Lower tier covered transactions. Except to the extent prohibited by law, persons who have been proposed for debarment under 48 CFR part 9, subpart 9.4, debarred or suspended shall be excluded from participating as either participants or principals in all lower tier covered transactions (see Sec. 29.110(a)(1)(ii)) for the period of their exclusion.

(c) Exceptions. Debarment or suspension does not affect a person's eligibility for--

(1) Statutory entitlements or mandatory awards (but not subtier awards thereunder which are not themselves mandatory), including deposited funds insured by the Federal Government;

(2) Direct awards to foreign governments or public international organizations, or transactions with foreign governments or foreign governmental entities, public international organizations, foreign government owned (in whole or in part) or controlled entities, and entities consisting wholly or partially of foreign governments or foreign governmental entities;

(3) Benefits to an individual as a personal entitlement without regard to the individual's present responsibility (but benefits received in an individual's business capacity are not excepted);

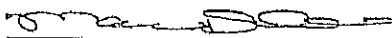
(4) Federal employment;

(5) Transactions pursuant to national or agency-recognized emergencies or disasters;

(6) Incidental benefits derived from ordinary governmental operations; and

(7) Other transactions where the application of these regulations would be prohibited by law.

[60 FR 33041, 33064, June 26, 1995]



Signature

Marcia D. Onieal, Town Manager

Title

Town of Black Mountain

Agency/Organization

12.31.08

Date

Schedule J

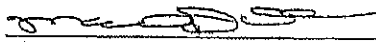
FEDERAL CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

(Required of Governmental Agencies and Non-Profit Organizations)

- I. By execution of this Agreement the Contractor certifies that it will provide a drug-free workplace by:
- A. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - B. Establishing a drug-free awareness program to inform employees about:
 - (1) The dangers of drug abuse in the workplace;
 - (2) The Contractor's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
 - C. Making it a requirement that each employee be engaged in the performance of the agreement be given a copy of the statement required by paragraph (a);
 - D. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the agreement, the employee will:
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;
 - E. Notifying the Department within ten days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction;
 - F. Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:
 - (1) Taking appropriate personnel action against such an employee, up to and including termination; or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and

Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

False certification or violation of the certification may be grounds for suspension of payment, suspension or termination of grants, or government-wide Federal suspension or debarment, 45 C.F.R. 82.510.


Signature

Marcia D. Onical, Town Manager
Title

Town of Black Mountain
Agency/Organization

12.31.08
Date



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20.219 RECREATIONAL TRAILS PROGRAM

FEDERAL AGENCY

FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

AUTHORIZATION

Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Public Law 109-59, 23 U.S.C. 104, 206.

OBJECTIVES

To provide funds to the States to develop and maintain recreational trails and trail-related facilities for both nonmotorized and motorized recreational trail uses.

TYPES OF ASSISTANCE

Formula Grants; Project Grants.

USES AND USE RESTRICTIONS

Funds from this program may be used for: (1) Maintenance and restoration of existing trails; (2) development and rehabilitation of trailside and trailhead facilities and trail linkages; (3) purchase and lease of trail construction and maintenance equipment; (4) construction of new trails (with restrictions for new trails on Federal lands); (5) acquisition of easements or property for trails or trail corridors; (6) assessment of trail conditions for accessibility and maintenance; (7) development and dissemination of publications and operation of educational programs to promote safety and environmental protection (as those objectives relate to one or more of the use of recreational trails, supporting non-law enforcement trail safety and trail use monitoring patrol programs, and providing trail-related training), (limited to 5 percent of a State's funds); and (8) State administrative costs related to this program (limited to 7 percent of a State's funds). Funds may not be used for: property condemnation; constructing new trails for motorized use on National Forest or Bureau of Land Management lands unless the project is consistent with resource management plans; or facilitating motorized access on otherwise non motorized trails. The USDOT encourages States to enter into contracts and cooperative agreements with qualified youth conservation or service corps to perform construction and maintenance of recreational trails under this program.

Applicant Eligibility

The Governor of each State must designate the State agency or agencies responsible for administering this program. The State must have a State recreational trail advisory committee that represents both motorized and nonmotorized recreational trail users, which shall meet not less than once per fiscal year. The State agency may accept project proposals from private organizations, or from municipal, county, State, or Federal government entities, and other government entities. The projects must satisfy one or more of the permissible uses.

Beneficiary Eligibility

The State agency designated by the Governor.

Credentials/Documentation

Allowable costs will be determined in accordance with applicable cost principles listed in 49 CFR Part 18.22 for the kind of organization receiving the grant or subgrant.

Preapplication Coordination

Some States require preapplication submittals. Trail and trail-related projects must be planned and developed under the laws, policies, and administrative procedures within each State, and be identified in, or further a specific goal of, a recreational trail plan, or a statewide comprehensive outdoor recreation plan required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601 4 et seq.), that is in effect. This program is excluded from coverage under E.O. 12372.

Application Procedure

The States must submit project proposals to the FHWA division office located in each State for approval. The State may submit individual projects or consolidate similar projects for the purposes of program approval. FHWA approval constitutes a commitment to pay the Federal share of the project's cost. The State's projects also must be included in State transportation improvement programs and applicable metropolitan transportation improvement programs.

Award Procedure

The State agency or agencies designated by the Governors decide which projects will be developed within funding levels, but the FHWA division office located in each State makes the final decision on the eligibility of specific projects for funding.

Deadlines

There are no Federal deadlines for funding requests. Each State establishes deadlines for projects within that State.

Range of Approval/Disapproval Time

From 5 days to 5 months.

Appeals

None.

Renewals

None.

Formula and Matching Requirements

Funds are distributed to the States by statutory formula: 50 percent of the funds are apportioned equally among all States, and 50 percent are apportioned in proportion to the estimated amount of non highway recreational fuel use in each State. In general, the Federal share is determined in accordance with 23 U.S.C. 120(b): generally 80%, with higher Federal shares in States with larger proportions of Federal lands. A Federal agency project sponsor may provide additional Federal funds, provided the total Federal share does not exceed 95 percent. Funds from any other Federal program may be used for the non Federal match if the project also is eligible under the other program. Recreational Trails Program funds may be used to match other Federal funds if the project also is eligible under the other program. States also may allow a programmatic match: if some project sponsors in a State provide more match funds than required, other sponsors in the State may provide less. Some in-kind materials and services may be credited toward the project match. States may allow some pre-approval planning and environmental assessment costs toward the project match.

Length and Time Phasing of Assistance

Funds generally become available at the beginning of the fiscal year for which they are authorized, and must be obligated within 3 years after the close of that fiscal year.

Reports

Generally, the FHWA division office in each State monitors and reviews State projects and programs.

Audits

In accordance with the provisions of OMB Circular No. A-133 (Revised, June 27, 2003), Audits of State, Local Governments, and Nonprofit Organizations, nonfederal entities that expend financial assistance of \$500,000 or more in Federal awards will have a single or a program-specific audit conducted for that year. Nonfederal entities that expend less than \$500,000 in a year in Federal awards are exempt from Federal audit requirements for that year, except as noted in Circular No. A-133.

Records

Project records and documents must be retained by the State for 3 years following the final submission for Federal payment in accordance with 49 CFR 18.41.

Account Identification

69-8083-0-7-401.

Obligations

(Grants) Obligations are reported under Federal-aid Highway program totals.

Range and Average of Financial Assistance

Apportionments to the States are based on statutory formula. All 50 States and the District of Columbia are eligible to receive apportionments. For fiscal year 2007 funds ranged from \$727,059 to \$5,555,406; the average was \$1,473,725 (however, some States rescinded funds). For fiscal year 2008 funds ranged from \$776,078 to \$6,037,429, but were subject to rescissions resulting about an 11.5 percent decrease.

PROGRAM ACCOMPLISHMENTS

ATTACHMENT F

States selected projects located on Federal, State, local, and private lands for all kinds of recreational trail uses including projects such as: grooming snow trails, maintaining trails, constructing nature trails, constructing urban multiple use trails, developing rail-trails, repairing motorized and non motorized trails, constructing and rehabilitating trail bridges, improving trail access for people with disabilities, developing trailside and trailhead facilities, assessing trails for accessibility and maintenance, improving trail information and signs, and providing trail safety patrols and trail-related training. Many projects use youth conservation or service corps.

REGULATIONS, GUIDELINES, AND LITERATURE

23 CFR, Highways and 49 CFR, Transportation. There are no regulations specifically for this program. Program guidance was completed on April 1, 1999; and is posted at <http://www.fhwa.dot.gov/environment/rectrails/guidance.htm> along with program updates.

Regional or Local Office

State-level offices of the Federal Highway Administration (as listed in Appendix IV of the Catalog) or the State agency designated by the Governor to administer this program.

Headquarters Office

Christopher B. Douwes, Office of Planning and Environment (HEPN-50), Federal Highway Administration, 1200 New Jersey Ave S.E., Washington DC 20590. Telephone: (202) 366-5013. Fax: 202-366-3409. E-mail: christopher.douwes@dot.gov.

Web Site Address

<http://www.fhwa.dot.gov/environment/rectrails.html>

RELATED PROGRAMS

20.205, Highway Planning and Construction.

EXAMPLES OF FUNDED PROJECTS

Trail projects to develop and maintain recreational trails and trail-related facilities for both non motorized and motorized recreational trail uses. Examples include maintenance and construction of trails for hiking, bicycling, in-line skating, equestrian use, cross-country skiing, snowmobiling, off-road motorcycling, all-terrain vehicle riding, four-wheel driving, or using other off-road motorized vehicles; development and rehabilitation of trailside and trailhead facilities; operation of educational projects and programs to promote safety and environmental protection related to recreational trails; State administrative costs related to this program. Many projects use youth conservation or service corps. See specific project examples at: Award winning projects: <http://www.americantrails.org/awards/CRTawards.html> Project database: <http://www.funoutdoors.info/rtphome.html>.

CRITERIA FOR SELECTING PROPOSALS

To be eligible, projects must be selected on the basis of State priorities within the limit of the funds apportioned to each State.