

**LAKE LURE TOWN COUNCIL  
WORK SESSION AND ACTION  
MEETING PACKET**

Wednesday, February 28, 2024  
8:30 a.m.



**Mayor Carol C. Pritchett  
Mayor Pro Tem David DiOrio  
Commissioner Patrick Bryant  
Commissioner Scott Doster  
Commissioner Jim Proctor**

# TOWN OF LAKE LURE

## Town Council Work Session/Action Meeting

Wednesday, February 28, 2024 - 8:30 AM

Lake Lure Municipal Center



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### Agenda

- I. Call to Order**
- II. Agenda Adoption**
- III. Public Comment**
- IV. Update from the Lake Lure Flowering Bridge in regard to the Education Center – Page 1**
- V. Dredging Presentation – Sandra Haynes, PE, LaBella Associates & Keith Gray, Integrated Lakes Management (ILM) – Page 2**
- VI. Discuss Pool Creek Park Fence – Page 3**
- VII. Discuss Youngs Mountain Trail – Page 4**
- VIII. Update on the Boys Camp Road Parks and Recreation Trust Fund (PARTF) Repayment Process – Page 5**
- IX. Discuss Timeline for Hiring a Parks, Recreation, and Lake Director upon Dean Givens' Retirement in July – Page 9**
- X. Update on Chimney Rock Village Agreement to Operate Water System – Page 10**
- XI. Discuss Wastewater Treatment Plant (WWTP) Replacement Financing – Page 18**
- XII. Review Zoning and Planning Board Recommendations for Lake Structure Accessory Storage Closets and Amendment to 36-64 (f) (5) – Page 19**
- XIII. Discuss Lake Structure Condemnation – Page 21**
- XIV. Discuss the Comprehensive Plan – Page 31**
- XV. Update on Audit Bidding Process – Page 32**
- XVI. Discuss Amendment to Lake Lure Tours Concession Agreement – Page 33**
- XVII. Discuss Town Water SCADA System – Page 34**
- XVIII. Discuss Water System Consolidation – Page 35**
- XIX. LaBella AIA Project Adjustments to Proposal for Engineering Services – Page 36**

**XX. Update on Fiscal Year 2024 Rehabilitation of High Hazard Potential Dams Funding Opportunity – Page 43**

**XXI. Fire Apparatus Appropriation Request to the General Assembly – Page 54**

**XXII. Project Manager Updates – Page 55**

**XXIII. Town Manager Updates – Page 56**

**XXIV. Closed Session**

*In accordance with G.S. 143-318.11 (a) (5) for the purpose of discussing property acquisition and G.S. 143-218.11 (a) (3) for attorney client privilege.*

**XXV. Adjournment**

**LAKE LURE TOWN COUNCIL  
AGENDA ITEM REQUEST FORM  
Meeting Date: February 28, 2024**

**SUBJECT:** Update from the Lake Lure Flowering Bridge (LLFB) in regard to the Education Center

**AGENDA INFORMATION:**

**Item Number:** IV  
**Department:** Administration  
**Contact:** Kathy Tanner, LLFB Board Chair  
**Presenter:** Kathy Tanner, LLFB Board Chair

**BRIEF SUMMARY:**

The Lake Lure Flowering Bridge will provide Council with an update regarding the future education center. Detailed discussion of information related to DEQ permitting for allowing a connection to the Town's sewer system will also be included.

**RECOMMENDED MOTION AND REQUESTED ACTIONS:**

N/A

**ATTACHMENTS:**

N/A

**STAFF COMMENTS AND RECOMMENDATIONS:**

N/A

**LAKE LURE TOWN COUNCIL**  
**AGENDA ITEM REQUEST FORM**  
**Meeting Date: February 28, 2024**

**SUBJECT:** Dredging Presentation – Sandra Haynes, PE, LaBella Associates & Keith Gray, Integrated Lakes Management (ILM)

**AGENDA INFORMATION:**

**Item Number:** V  
**Department:** Project management  
**Contact:** Michael Dydula, Project Manager  
**Presenter:** Sandra Haynes, PE, LaBella Associates & Keith Gray, Integrated Lakes Management (ILM)

**BRIEF SUMMARY:**

Various presenters will provide information in regard to dredging including scope, strategy, funding, permitting, engineering and construction activities. Michael Dydula will go over some history, scope and funding issues. Sandra Haynes, PE, with LaBella Associates will be detailing the engineering aspects for permitting, strategy and design. Keith Gray with Integrated Lakes Management (ILM) will be discussing dredging operations and management. This discussion will allow the town to develop and derive a clear scope of areas of work to be performed.

**RECOMMENDED MOTION AND REQUESTED ACTIONS:**

N/A

**ATTACHMENTS:**

N/A

**STAFF COMMENTS AND RECOMMENDATIONS:**

N/A

**LAKE LURE TOWN COUNCIL  
AGENDA ITEM REQUEST FORM  
Meeting Date: February 28, 2024**

**SUBJECT:** Discuss Pool Creek Park Fence

**AGENDA INFORMATION:**

**Item Number:** VI  
**Department:** Parks, Recreation, and Lake  
**Contact:** Dana Bradley, Parks, Rec., and Trails Coordinator  
**Presenter:** Dana Bradley, Parks, Rec., and Trails Coordinator

**BRIEF SUMMARY:**

Parks, Recreation, and Trails Coordinator Dana Bradley will lead discussions in regard the Pool Creek Park Fence. If the fence remains in place, there will need to be necessary repairs made to keep it functioning. However, staff is recommending the removal of the fence altogether.

**RECOMMENDED MOTION AND REQUESTED ACTIONS:**

N/A

**ATTACHMENTS:**

N/A

**STAFF COMMENTS AND RECOMMENDATIONS:**

To remove the Pool Creek Park Fence.

**LAKE LURE TOWN COUNCIL  
AGENDA ITEM REQUEST FORM  
Meeting Date: February 28, 2024**

**SUBJECT:** Discuss Youngs Mountain Trail

**AGENDA INFORMATION:**

**Item Number:** VII  
**Department:** Parks, Recreation, and Lake  
**Contact:** Dana Bradley, Parks, Rec., and Trails Coordinator  
**Presenter:** Dana Bradley, Parks, Rec., and Trails Coordinator

**BRIEF SUMMARY:**

Conserving Carolina is getting close to completing a parking lot and trail expansion project located on Youngs Mountain Trail. The non-profit organization has expressed willingness to donate the property the trail is on, once the trail is completed, to the Town. Town staff requests that Council discuss taking ownership of property.

**RECOMMENDED MOTION AND REQUESTED ACTIONS:**

N/A

**ATTACHMENTS:**

N/A

**STAFF COMMENTS AND RECOMMENDATIONS:**

Staff recommends accepting Conserving Carolina's donation of the Youngs Mountain Trail property, once the parking lot and trail are completed.

**LAKE LURE TOWN COUNCIL**  
**AGENDA ITEM REQUEST FORM**  
**Meeting Date: February 28, 2024**

**SUBJECT:** Update on the Boys Camp Road Parks and Recreation Trust Fund (PARTF)  
Repayment Process

**AGENDA INFORMATION:**

**Item Number:** VIII  
**Department:** Parks, Recreation, and Lake  
**Contact:** Dana Bradley, Parks, Rec., and Trails Coordinator  
**Presenter:** Dana Bradley, Parks, Rec., and Trails Coordinator

**BRIEF SUMMARY:**

The appraisal process for the repayment of the Parks and Recreation Trust Fund (PARTF) Grant for Boys Camp Road has been completed. The property value at the time of purchase exceeds the current property value, so the Town will need to repay the larger amount which is the original cost of \$223,125. Parks, Recreation, and Trails Coordinator Dana Bradley will detail the remaining steps in the repayment process. The Town will have to hold a public meeting, which staff recommends should be scheduled in the near future.

**RECOMMENDED MOTION AND REQUESTED ACTIONS:**

N/A

**ATTACHMENTS:**

Conversion Repayment Steps

**STAFF COMMENTS AND RECOMMENDATIONS:**

N/A





## North Carolina Division of Parks and Recreation

Governor Roy Cooper

Secretary Reid Wilson

To convert the land acquired with PARTF assistance, the Town's conversion request must include all required elements listed below, per the current PARTF Grant Manual:

**1. Basic Information** - Brief history of the project and site:

- a. grant number and project name,
- b. completion date,
- c. grant amount,
- d. historic and current uses of the project area,
- e. current plat map and site plan of the project area,

**2. Justification of the Conversion** – The Grantee must describe the reasons why the proposed conversion is necessary.

**3. Analysis of the Alternatives to the Conversion** – The Grantee must demonstrate that they have reviewed and exhausted all reasonable alternatives before proposing a conversion. The Grantee must include the list of reasonable alternatives that were considered and why the alternatives should be rejected.

**4. 30-Day Comment Period** - Prior to submitting a conversion request to DNCR, a Grantee must provide the public a well-publicized opportunity of at least 30 days to review the proposed site conversion and mitigation proposals. Publication of the opportunity for public review must include all the channels normally used by the community to publicize its official actions, including publication in a newspaper of general circulation, and posting of the notice at the property proposed for conversion. If the PARTF-assisted property are regional in nature and/or is supported by multiple jurisdictions, for example a linear park, the public comment opportunity must be publicized to all residents of the affected communities. The conversion request must include a description of the process used to gather public input on the proposed conversion and mitigation sites; the evidence of the public notice; a certified copy of the minutes of the public meeting used to gather public comment; and the comments received during the 30-day comment period.

**5. The steps the Grantee has taken to address the issues raised by the public** regarding both the conversion and the proposed mitigation. DNCR may request additional information regarding the steps taken to address local concerns.

Brian Strong, Director  
NC Division of Parks and Recreation  
1515 MSC - Raleigh, NC 27699-1515  
919 707 9300 / ncparks.gov

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## North Carolina Division of Parks and Recreation

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**6. Conduct a Public Meeting** - The Grantee's governing body must hold a well-publicized public meeting to discuss the proposed conversion and mitigation and pass a resolution supporting the request to convert a PARTF-assisted site. The notice for this meeting should include the same channels as the notice for the public review period, including publication in a newspaper of general circulation in the affected areas at least 7 days prior to the meeting. The notice must also clearly state that the conversion issue is on the agenda and formal action is expected to be taken at this meeting. The meeting must be held, and the resolution dated after the public's opportunity to review the proposal.

**7. Resolution from the Governing Body** - A certified copy of a resolution from the Grantee's governing body supporting the proposed conversion and committing to providing the required mitigation.

**8. A description of the PARTF-assisted land** including size and location and estimated fair market value (FMV) of the parcel proposed for conversion based on an appraisal.

**9. Description of the proposed replacement parcel, including:**

- a. Current ownership and five-year history of conveyance
- b. Property uses and conditions.
- c. Proposed uses once acquired by the Grantee.
- d. Description of how the parcel is equal or superior in recreational value and/or resource protection values of the parcel to be converted.
- e. Estimated fair market value (FMV) of the parcel proposed for conversion. All appraisals must be produced by a licensed appraiser. The appraiser must certify that each appraisal was completed using the Uniform Standard of Professional Appraisal Practices.

**10. Prepare a survey map(s) that displays the converted and replacement areas.** The map(s) must include a surveyor's stamp and signature and must be signed and dated by the Grantee's chief elected official.

**11. Preliminary site plan for the replacement property showing the proposed uses.**

**12. SEPA Environmental Assessment for the converted and the replacement properties.** An environmental review of the converted site was a part of the PARTF grant selection process and is required for replacement property.



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**13. A commitment to acquire the replacement property within 90 days of the conversion taking place or for conversions that have already taken place, within 90 days of the mitigation being approved.**

Blake Covington, your RRS consultant, can support the Town as you prepare the official conversion request.

Sincerely,

Vonda Martin  
Manager, Grants & Outreach Program

cc: Blake Covington, Recreation Resources Service Consultant, West Region

**LAKE LURE TOWN COUNCIL  
AGENDA ITEM REQUEST FORM  
Meeting Date: February 28, 2024**

**SUBJECT:** Discuss Timeline for Hiring a Parks, Recreation, and Lake Director upon Dean Givens' Retirement in July

**AGENDA INFORMATION:**

**Item Number:** IX  
**Department:** Parks, Recreation, and Lake  
**Contact:** Hank Perkins, Town Manager  
**Presenter:** Hank Perkins, Town Manager

**BRIEF SUMMARY:**

Parks, Recreation, and Lake Director Dean Givens will be retiring in July of 2024. Town Manager Hank Perkins would like to begin discussions in regard to the timeline for recruitment and hiring of this position upon its vacancy.

**RECOMMENDED MOTION AND REQUESTED ACTIONS:**

N/A

**ATTACHMENTS:**

Draft Job Description will be available at the time of the meeting.

**STAFF COMMENTS AND RECOMMENDATIONS:**

N/A

**LAKE LURE TOWN COUNCIL  
AGENDA ITEM REQUEST FORM  
Meeting Date: February 28, 2024**

**SUBJECT:** Update on Chimney Rock Village Agreement to Operate Water System

**AGENDA INFORMATION:**

**Item Number:** X  
**Department:** Administration  
**Contact:** Hank Perkins, Town Manager  
**Presenter:** Hank Perkins, Town Manager

**BRIEF SUMMARY:**

The Agreement to Operate Water System between the Town of Lake Lure and Chimney Rock Village is set to expire on June 30, 2024. Chimney Rock Village has expressed their intent to not enter into a new agreement with the Town. Instead, the Village will be working with a private firm to operate their water system. However, both the Town of Lake Lure and Chimney Rock Village would like to enter into a mutual aid agreement for the water systems moving forward.

**RECOMMENDED MOTION AND REQUESTED ACTIONS:**

N/A

**ATTACHMENTS:**

Draft Emergency Water Agreement

**STAFF COMMENTS AND RECOMMENDATIONS:**

N/A

Chimney Rock Village

STATE OF NORTH CAROLINA

COUNTY OF RUTHERFORD

### EMERGENCY WATER AGREEMENT

THIS EMERGENCY WATER AGREEMENT is made and entered into by and between the Chimney Rock Village, North Carolina and the Town of Lake Lure, North Carolina both located in Rutherford County. Hereinafter referred to as CHIMNEY ROCK and LAKE LURE, respectively.

#### WITNESSETH

WHEREAS, Lake Lure and Chimney Rock are political subdivisions of the State of North Carolina, both having the power and authority to enter into this agreement, and the signatories hereto have been authorized to execute this document on behalf of the Lake Lure Town Commission and the Chimney Rock Village Council; and

WHEREAS, Lake Lure owns and operates a water treatment and distribution system, and is engaged in the enterprise of managing, operating, maintaining said system and providing potable water to customers within its service area; and

WHEREAS, Chimney Rock owns and operates a water treatment and distribution system, and is also engaged in the enterprise of managing, operating, maintaining the system and providing potable water to customers within its service area; and

WHEREAS, Lake Lure and Chimney Rock previously entered into an Agreement to Operate Water System ("prior agreement") on or about April 15, 2003; and

WHEREAS, Lake Lure and Chimney Rock will terminate the prior agreement, but believe it is beneficial to both Chimney Rock and Lake Lure that provisions be set up arranging for either party to provide water from their water reserves to the other party in times of emergency; and

WHEREAS, Lake Lure and Chimney Rock have a mutual interest in maintaining a level of cooperation between their water services delivery programs for times of emergency; and

WHEREAS, by authority duly given by their governing bodies, Chimney Rock and Lake Lure have been authorized to enter into this Emergency Water Agreement.

BASED ON THE FOREGOING, and in consideration of the mutual covenants contained herein, the parties do agree:

#### **1. Purpose of the Agreement.**

1.1 The purpose of the agreement between Chimney Rock and Lake Lure is to allow Chimney Rock or Lake Lure to provide water from its water system provided there is adequate

## Chimney Rock Village

reserve capacity to meet the demands of the other party and to provide potable water to the other party in times of emergency. Emergency is defined two ways:

1.1.1. The First Definition of Emergency in this agreement is a water shortage resulting from prolonged drought, contamination of the water supply, damage to water infrastructure, or other unforeseen causes that presents an imminent threat to public health, safety, and welfare or to the environment (hereinafter "Water Shortage Emergency"). This definition is the equivalent to the definition for "water shortage emergency" in North Carolina General Statutes § 143-350.

1.1.2. The Second Definition of Emergency in this agreement is an incident such as a fire or another natural disaster that requires immediate additional water supply to prevent harm to the public (hereinafter "Disaster Emergency").

1.2 Throughout this Agreement, the various definitions of Emergency shall be used, however, if only Emergency is used, then both definitions of Emergency shall be applied unless a specific type of emergency, such as Water Shortage Emergency or Disaster Emergency is stated.

1.3 It is not the purpose of this agreement to provide an ongoing, long-term supply of water between the parties. The parties can agree to another agreement providing an ongoing, long-term supply of water and that agreement shall supersede this agreement upon the effective date of that agreement.

1.4 Chimney Rock and Lake Lure will make reasonable effort to provide water to meet the emergency needs of the other within the capacity of its water systems. However, both parties understand that the primary responsibility of each is to meet the needs and demands of its own constituents first. To this end, either party may restrict the volume of water available to the other party at any time to meet the needs of its own constituents as they may exist from time to time.

1.5 Should either party require the other's water reserves, then the party that receives the water shall pay the other party the highest rate allowable for providing such services.

1.6 Chimney Rock and Lake Lure in cases of extended emergency shall make every reasonable effort to educate and inform its customers and, if necessary, to restrict the water to effectively conserve the water utilized by customers during such extended emergency.

## **2. Declaration of Emergency and Notification**

2.1 A declaration of emergency may be made by agreement of Chimney Rock and Lake Lure through their designated individuals noted herein. Such designated individuals shall be those persons serving in the capacities indicated below at such time:

### CHIMNEY ROCK

Mayor  
Manager/Administrator  
Finance Officer

### LAKE LURE

Mayor  
Manager  
Finance Officer

2.2 Each party shall maintain a written log/record of all pertinent information from notification of declaration of emergency to the end of emergency.

2.3 The parties shall immediately notify the other upon becoming aware of any activity, problem or circumstance that might present a danger to the health, safety and welfare of their or the other's water users. Further, both parties shall take appropriate action to remedy such activity, problem or circumstance and to avoid or minimize disruptions in service. Both parties shall immediately take those steps necessary to alleviate such activity, problem or circumstance where such measures are beyond the control of Lake Lure and/or Chimney Rock.

2.4 Lake Lure and Chimney Rock agree to maintain compliance with all laws and regulations, which apply to the ownership, operation and maintenance of both water systems, including adherence to the terms and conditions of all state permits, which establish appropriate water quality standards for the systems.

### **3. Water Shortage Emergency.**

3.1 Both Chimney Rock and Lake Lure must agree that a Water Shortage Emergency is in place before acting pursuant to this Agreement. Neither party is allowed to unilaterally operate pursuant to this Agreement without the written consent of the other party regarding a Water Shortage Emergency.

3.2 The agreement of the declaration of Water Shortage Emergency shall be by direct telephone or person-to-person communication between one of the designated persons for each party. A request of declaration of Water Shortage Emergency shall include the nature of the emergency, the estimated time the agreement needs to be activated, estimated volume flow rates, and estimated length of emergency.

3.3 If either party can anticipate the issues, then that party shall provide as much time as possible in anticipation of the issue causing the Water Shortage Emergency.

3.4 Either party may unilaterally cease operations pursuant to a Water Shortage Emergency if that party determines that there is no longer a Water Shortage Emergency. Notice shall be given to this determination in written form. The Receiving party may appeal the decision from the party providing the water that there is no longer a Water Shortage Emergency within twenty-four (24) hours.

3.5 If either party continues to use the water resources of the other party outside of the twenty-four (24) hour window as provided in subsection 3.4 above, then the party receiving the water shall be liable for the residential cost per gallon rate that the party providing water charges. For the purposes of this agreement, each day is rounded up to midnight on the final day water is being supplied. This is with the exception of if the party providing water agrees with the appeal of the party receiving water.

### **4. Disaster Emergency.**



## Chimney Rock Village

4.1 Either party is allowed to unilaterally receive the water resources of the other party required to obtain the immediate consent of the other party when a Disaster Emergency occurs except when the Disaster affects both parties. Examples of a unilateral ability to receive shall be when a fire cannot be extinguished by one party's water resources alone. However, if there is a forest fire that is in both party's municipalities, then both parties need to cooperate to determine use of water resources.

4.2 The party that is providing water may unilaterally determine that the claimed Disaster Emergency is either no longer a Disaster Emergency or there was no Disaster Emergency at all. If the party providing water makes either determination, then they may unilaterally end the ability of the receiving party's access to the providing party's water.

4.3 If the party providing water determines that there was no Disaster Emergency prior to the unilateral obtaining of water by the receiving party, then the party receiving the water shall be liable for the residential cost per gallon rate that the party providing water charges. For the purposes of this agreement, each day is rounded up to midnight on the final day water is being supplied. This is with the exception of if the party providing water agrees with the appeal of the party receiving water.

### **5. Water Usage Procedures.**

5.1 Both Chimney Rock and Lake Lure, if receiving the other's water resources, shall use upmost caution when receiving the other's water resources. The parties covenant not to damage the other's water resources and agree that if damage occurs, then the party that causes the harm shall be liable to the other party.

5.2 Both Chimney Rock and Lake Lure agree that party receiving the other's water shall not be running the water system itself. However, upon approval of both parties, either party can send people to open the valves.

### **6. Quality and Quantity of Water Provided.**

6.1 Chimney Rock and Lake Lure shall take reasonable and necessary measures to comply with applicable state and federal regulations concerning the treatment, production, and distribution of potable water within their systems. Any deviation from such applicable standards in state and federal regulations shall be reported by the supplying party to the requesting party in the event of the declaration of an emergency.

6.2 Each party shall maintain its water system in the manner necessary for the distribution or treatment of water to its own customers and shall not be responsible for modifying such systems to provide any particular volume of flow to a requesting party hereunder.

6.3 Other than as set forth above, no warranty, either express or implied, including, but not limited to, any warranty of merchantability or fitness for a particular purpose, is included or made part of this agreement.

## Chimney Rock Village

### **7. Cost of Water.**

7.1 Chimney Rock and Lake Lure agree that in cases where they are receiving the other's water, then that party shall have its residents, or whatever party used the water, to pay the supplying party's current residential water rate as applied in Sections 3.5 and/or 4.3.

7.2 Any statement for water provided rendered by Chimney Rock to Lake Lure or Lake Lure to Chimney Rock under this agreement shall be due and payable on the date of delivery of the statement. Statements are past due and delinquent on the twenty-fifth (25th) day after the date of the statement. Statements past due and delinquent shall be subject to a late charge per month based upon a rate of twelve percent (12%) per annum.

7.3 Lake Lure and Chimney Rock shall review the meters indicating the amount of Water being distributed to Lake Lure or Chimney Rock and provide the other party with weekly updates concerning the water usage.

### **8. Term.**

8.1 The term of this agreement shall end on June 30, 2026. Thereafter, unless terminated as hereinafter provided, the agreement shall renew for successive terms of two (2) years each for (20) years or until June 30, 2046.

8.2 Either party may terminate this agreement as of June 30, 2026 or June 30th of any year thereafter by giving the other party written notice of such termination, such written notice to be given no less than nine (9) months prior to the effective date thereof.

8.3 In the event either party shall be in breach of a material term of this agreement and shall remain in breach for a period of three (3) months following notification from the non-breaching party, the non-breaching party may terminate this agreement upon six (6) months' notice to the breaching party.

### **9. Miscellaneous.**

9.1 This agreement may be amended or modified only by an instrument in writing authorized and executed by each of the parties hereto.

9.2 Chimney Rock and Lake Lure agree that should any disputes arise under this agreement, including but not limited to disputes pertaining to services, rates, or invoices, said disputes shall be resolved, if at all possible, through good faith negotiations between the parties. It is the intent of Chimney Rock and Lake Lure that pursuit of legal action shall be a remedy of last resort and that a negotiated resolution, including the use of outside experts or arbitrators, shall be the preferred means of resolving disputes hereunder. It is further agreed that in the event such disputes cannot be resolved within 90 days from the date they first arise, either party may seek such other remedies as may be available to it.

9.3 If any portion of this agreement shall be declared invalid or unenforceable by a court of competent jurisdiction, then, in such event, the parties shall make a good faith effort to

## Chimney Rock Village

renegotiate such agreement but, in the event such renegotiation is unsuccessful, this agreement shall be null and void.

9.4 This Agreement shall not be construed as creating an entitlement to water for any citizen or user within Lake Lure or Chimney Rock nor shall Chimney Rock or Lake Lure be liable to any person for damages for failure to furnish water.

9.5 If a dispute arises concerning this Agreement, then the parties agree that the terms of this Agreement and its terms was mutually agreed to and drafted by both parties. Therefore, this Agreement shall not be construed against the "last drafter" as both parties agree that they took an active role in drafting this Agreement.

9.6 The Chimney Rock Village Council authorizes the execution of this Agreement as approved by the Village Council of the North Carolina municipality of Chimney Rock Village this the 23<sup>rd</sup> day of January, 2024.

9.7 The Lake Lure Town Commission authorizes the execution of this Agreement as approved by the Town Commission of the North Carolina municipality of the Town of Lake Lure this the \_\_\_\_\_ day of \_\_\_\_\_, 2024.

[This Section Intentionally left blank with Signatures on following Page]

Chimney Rock Village

IN WITNESS WHEREOF, the parties have, by authority duly given, executed this agreement effective the \_\_\_\_\_ day of \_\_\_\_\_, 2024.

CHIMNEY ROCK VILLAGE

BY: \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Village Clerk

(Seal)

TOWN OF LAKE LURE

BY: \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

(Seal)

**LAKE LURE TOWN COUNCIL**  
**AGENDA ITEM REQUEST FORM**  
**Meeting Date: February 28, 2024**

**SUBJECT:** Discuss Wastewater Treatment Plant (WWTP) Replacement Financing

**AGENDA INFORMATION:**

**Item Number:** XI  
**Department:** Finance  
**Contact:** Hank Perkins, Town Manager  
**Presenter:** Hank Perkins, Town Manager

**BRIEF SUMMARY:**

Town Manager Hank Perkins and Finance Director Stephen Ford will lead discussions in regard to options for financing the future wastewater treatment plant.

**RECOMMENDED MOTION AND REQUESTED ACTIONS:**

N/A

**FUNDING SOURCES:**

Financing and Bond Options

**ATTACHMENTS:**

Will be provided.

**STAFF COMMENTS AND RECOMMENDATIONS:**

Request to review options.

**LAKE LURE TOWN COUNCIL**  
**AGENDA ITEM REQUEST FORM**  
**Meeting Date: February 28, 2024**

**SUBJECT:** Review Zoning and Planning Board Recommendations for Lake Structure Accessory Storage Closets and Amendment to 36-64 (f) (5)

**AGENDA INFORMATION:**

**Item Number:** XII  
**Department:** Community Development  
**Contact:** Michael Williams, Community Development Director  
**Presenter:** Michael Williams, Community Development Director

**BRIEF SUMMARY:**

At their February 20<sup>th</sup> meeting, the Zoning and Planning Board made two recommendations to be reviewed by Council.

The first recommendation is related to lake structure accessory storage closets, which are not current addressed in the regulations. The Board's first recommendation is as follows:

*To add "Accessory storage closet means an exterior located, enclosed space on a dock, pier, or covered boat slip, used for permanent or temporary storage" to Section 6-48 ("Definitions"); and to add a new subsection 8 to Section 6-51 ("Design and Construction Standards") to state "Accessory storage closets shall not exceed 50% of the area of a dock, pier, or covered boat slip or 144 square feet, whichever is less; shall have no utilities other than electrical that is inspected and approved by the county building inspector, shall not be rooftop located and shall not be used as living space" and to renumber the remaining subsections accordingly.*

The second recommendation is amend Zoning Ordinances Section 36-46 ("CG Commercial General District"), Subsection (f) ("Front, Year, and Side Yard Requirements" subsection (5) as follows:

*(5) Where the lot abuts upon property **used zoned** for residential purposes, a buffer strip shall be provided along the side and/or rear lot line of such abutting residential **use zone**. If a fence or wall is used, such fence or wall shall be opaque and not less than eight feet in height. If a planted buffer is used, such buffer strip shall be not less than eight feet in width and shall be composed of evergreen trees or shrubs which at planting will be at least four feet high and at maturity will be not less than eight feet high. This requirement may be modified by the board of adjustment where sufficient natural buffering exists.*

**RECOMMENDED MOTION AND REQUESTED ACTIONS:**

N/A

**ATTACHMENTS:**

N/A

**STAFF COMMENTS AND RECOMMENDATIONS:**

N/A

**LAKE LURE TOWN COUNCIL**  
**AGENDA ITEM REQUEST FORM**  
**Meeting Date: February 28, 2024**

**SUBJECT:** Discuss Lake Structure Condemnation

**AGENDA INFORMATION:**

**Item Number:** XIII  
**Department:** Community Development  
**Contact:** Richard Carpenter, Dev. and Enviro. Review Specialist  
**Presenter:** Richard Carpenter, Dev. and Enviro. Review Specialist

**BRIEF SUMMARY:**

A lake structure within Quail Cove was recently thrown by wind approximately 50 ft. from its anchorage and struck at least two other structures before landing on a pontoon boat. Due to lack of followed regulations or oversight, it was determined that the boat slips that were intended to secure the structure were not in compliance with various regulations. There are a number of ordinances that relate to the issue, which are detailed within the full Department Memo. Upon analysis of the evidence in the field, it was determined that a larger problem existed and all of the Quail Cove cluster moorings are out of compliance and are a clear hazard. Staff feels that immediate action should be taken by town administration. It is the staff's opinion that these non-engineered and non-conforming structures may pose an imminent risk to life and/or property. Staff recommends the two slips that appear to have been destroyed by the wind event and a third that is warped to be condemned by the council and removed from the waters of Lake Lure. As for the remainder of the non-conforming metal slips with covers, staff recommends the Council require property owners to obtain engineered letters stating they are code-compliant and safe regarding wind loads or be removed from the lake.

**RECOMMENDED MOTION AND REQUESTED ACTIONS:**

N/A

**ATTACHMENTS:**

Community Development Department Memorandum

**STAFF COMMENTS AND RECOMMENDATIONS:**

As previously stated, staff feels that immediate action should be taken by town administration. It is the staff's opinion that these non-engineered and non-conforming structures may pose an imminent risk to life and/or property. Staff recommends the two slips that appear to have been destroyed by the wind event and a third that is warped to be condemned by the council and removed from the waters of Lake Lure. As for the remainder of the non-conforming metal slips with covers, staff recommends the Council require property owners to obtain engineered letters stating they are code-compliant and safe regarding wind loads or be removed from the lake.





TOWN OF LAKE LURE  
*Community Development Department*

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MEMORANDUM

TO: Town Council  
FROM: Rick Carpenter: Community Development Department  
DATE: February 20, 2024  
RE: Quail Cove POA LLC Lake Structure Issues

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Within the past week, a lake structure was thrown approximately 50 feet from its “anchorage.” This lake structure struck at least two other structures before coming to rest on top of a pontoon boat.

The boat slips in question are prefabricated metal structures that are designed to sit on the lakebed without any form of anchorage. These slips are not allowed to have covering. However, previous planners allowed these slips to be covered by lack of regulations, or oversight. Per the POA president, these slips are not engineered and may not meet wind load requirements.

**Relevant Ordinances:**

1. Sec. 6-52(e). Cleanup and removal of condemned, collapsed, or involuntarily destroyed structures shall begin within 90 days of the date of condemnation, collapse, or destruction. Hazardous items such as fuel, lubricants, paint, chemicals, unused boat batteries, etc., shall be removed immediately to protect water quality.
2. Sec. 6-54(b). The property owner shall be responsible for maintaining all lake structures covered by this article in good repair.
3. Sec.6-49(3). Plans certified by a licensed architect or engineer in accordance with the state code, drawn to scale.
4. Sec. 6-59(b). The same requirements apply to cluster mooring facilities as do to all other lake structures except they shall have no walls or roofs. Canopies attached to or installed above boat lifts are considered roofs and are prohibited in cluster mooring facilities.
5. Sec. 6-54(b). The property owner shall be responsible for maintaining all lake structures covered by this article in good repair. The town shall have the authority to condemn any lake structure due to decay, disrepair, or any hazardous condition. The property owner will be given a written notice and 90 days to comply with the town council's determination. If the owner fails to appeal to the town council for a hearing or comply with their determination, council may revoke their lake structure certificate and accompanying tag (if one had been issued) and remove the structure at the property owner's expense.

**Staff Determination & Recommendation:**

Staff have analyzed the evidence in the field, spoken to the POA president, and to the County building inspector to form the following opinion and recommendation.

Staff have determined that a hazardous situation appears to exist at the quail cove cluster mooring and recommend immediate action by town administration. It is the staff's opinion that these non-engineered and non-conforming structures may pose an imminent risk to life and/or property. Staff recommend the two slips that appear to have been destroyed by the wind event and a third that is warped to be condemned by the council and removed from the waters of Lake Lure. As for the remainder of the non-conforming metal slips with covers, staff recommends the Council require property owners to obtain engineered letters stating they are code-compliant and safe regarding wind loads or be removed from the lake.



















**LAKE LURE TOWN COUNCIL  
AGENDA ITEM REQUEST FORM  
Meeting Date: February 28, 2024**

**SUBJECT:** Discuss the Comprehensive Plan

**AGENDA INFORMATION:**

**Item Number:** XIV  
**Department:** Administration  
**Contact:** Hank Perkins, Town Manager  
**Presenter:** Hank Perkins, Town Manager

**BRIEF SUMMARY:**

Town Council was recently provided with copies of the 2007-2027 Comprehensive Plan and tasked with reviewing the plan in order to identify necessary changes or updates. Council will discuss their findings and recommended steps towards updating the plan and preparing for the future Comprehensive Plan, as the current plan comes to an end in three years.

**RECOMMENDED MOTION AND REQUESTED ACTIONS:**

N/A

**ATTACHMENTS:**

N/A

**STAFF COMMENTS AND RECOMMENDATIONS:**

N/A

**LAKE LURE TOWN COUNCIL  
AGENDA ITEM REQUEST FORM  
Meeting Date: February 28, 2024**

**SUBJECT:** Update on Audit Bidding Process

**AGENDA INFORMATION:**

**Item Number:** XV  
**Department:** Finance  
**Contact:** Stephen Ford, Finance Director  
**Presenter:** Stephen Ford, Finance Director

**BRIEF SUMMARY:**

Finance Director Stephen Ford will provide an update on the audit bidding process.

**RECOMMENDED MOTION AND REQUESTED ACTIONS:**

N/A

**ATTACHMENTS:**

Will provide RFQ copy at meeting

**STAFF COMMENTS AND RECOMMENDATIONS:**

Prepare to review audit proposals at March Regular meeting if available.

**LAKE LURE TOWN COUNCIL  
AGENDA ITEM REQUEST FORM  
Meeting Date: February 28, 2024**

**SUBJECT:** Discuss Amendment to Lake Lure Tours Concession Agreement

**AGENDA INFORMATION:**

**Item Number:** XVI  
**Department:** Administration  
**Contact:** Hank Perkins, Town Manager  
**Presenter:** Hank Perkins, Town Manager

**BRIEF SUMMARY:**

There have been previous discussions in regard to removing the Lake Lure Tours (LLT) Concession Agreement provision to open the beach following Labor Day for unsupervised access. Town staff and LLT are recommended the following amendment to Section 3 (“Hours of Operation”) of the Concession Agreement:

3. Hours of Operation

LLT shall, with the approval of the Town, establish its hours of operation.

The Marina shall be open and staffed during all times that the boat tours are operating, with the exception of "after hours" special tour boat events such as Dinner, Sunset, and Special Event cruises.

The established hours of public admission use of the beach shall be from 10 a.m. through 6 p.m. daily, Memorial Day through Labor Day. ~~The Beach will be opened daily from 9 a.m. to 5 p.m., from two weeks after Labor Day until one week prior to annual lake draw down, and remain closed onward until Memorial Day without admission fee.~~

Unless otherwise approved in advance by the Town, all Facilities will be closed from 11 p.m. to 6 a.m.

Following the closing of the beach during normal business and off-season hours, the pavilion and a portion of the beach will be available for rent by individuals, groups and organizations. Scheduling and arrangements for rental of the pavilion and a portion of the beach will be reserved and coordinated through LLT.

**RECOMMENDED MOTION AND REQUESTED ACTIONS:**

N/A

**ATTACHMENTS:**

N/A

**STAFF COMMENTS AND RECOMMENDATIONS:**

Staff recommends future approval of the recommended amendment.

**LAKE LURE TOWN COUNCIL**  
**AGENDA ITEM REQUEST FORM**  
**Meeting Date: February 28, 2024**

**SUBJECT:** Discuss Installation of SCADA System for Town Water System

**AGENDA INFORMATION:**

**Item Number:** XVII  
**Department:** Public Services  
**Contact:** Dean Lindsey, Public Services Director  
**Presenter:** Dean Lindsey, Public Services Director

**BRIEF SUMMARY:**

Adding Supervisory Control and Data Acquisition System for control and monitoring of the town's water supply system. This platform will be expanded in the future for controlling and monitoring the sewer systems also. A budget amendment will be required at a later date.

**RECOMMENDED MOTION AND REQUESTED ACTIONS:**

N/A

**FUNDING SOURCE:**

Water Fund

**ATTACHMENTS:**

N/A

**STAFF COMMENTS AND RECOMMENDATIONS:**

N/A

**LAKE LURE TOWN COUNCIL  
AGENDA ITEM REQUEST FORM  
Meeting Date: February 28, 2024**

**SUBJECT:** Discuss Water System Consolidation

**AGENDA INFORMATION:**

**Item Number:** XVIII  
**Department:** Public Services  
**Contact:** Dean Lindsey, Public Services Director  
**Presenter:** Dean Lindsey, Public Services Director

**BRIEF SUMMARY:**

Cross connecting the 80 Well system to the downtown water system, and consolidating the Lake Lure water system with the Fire Fly Cove water system into 1 permitted system. A budget amendment may be required at a later date.

**RECOMMENDED MOTION AND REQUESTED ACTIONS:**

N/A

**FUNDING SOURCE:**

Water Fund

**ATTACHMENTS:**

N/A

**STAFF COMMENTS AND RECOMMENDATIONS:**

N/A

**LAKE LURE TOWN COUNCIL  
AGENDA ITEM REQUEST FORM  
Meeting Date: February 28, 2024**

**SUBJECT:** LaBella AIA Project Adjustments to Proposal for Engineering Services

**AGENDA INFORMATION:**

**Item Number:** XIX  
**Department:** Public Services  
**Contact:** Dean Lindsey, Public Services Director  
**Presenter:** Dean Lindsey, Public Services Director

**BRIEF SUMMARY:**

In October 2022, Town Council approved LaBella Associates' proposal for preliminary scope of the Asset Inventory and Assessment (AIA) Project. This scope included overall project management and field observation, data review, analysis, and condition assessment, preparation of the final report, bathymetric survey, and GIS license for the Town. The total lump sum for these items was \$124,300. In addition, the T&M phase included CCTV inspection and smoke testing for \$75,700 total. After the adoption of *Resolution No. 23-02-14B Accepting American Rescue Plan Funding for Subaqueous Sanitary Sewer AIA* in February 2023, LaBella was authorize to act on proposed services. Since then, the Town chose to conduct a portion of the previously-scoped LaBella effort, while LaBella's efforts have been focused on GIS development and support, and completion of the bathymetric survey. In recent discussions, it was determined that a portion of the grant funding accepted under Resolution No. 23-02-14B will be unused unless reallocated to additional tasks not previously scoped. LaBella anticipates invoicing only portions of scope items 1 and 2 (Project Management and Data Review / Analysis), and not invoicing scope item 5 or the T&M scope items at all. As a result, the following scope items are therefore proposed to be added:

- The Town will spend \$20,000 (10% - the maximum portion of the grant allowable) on software and/or equipment.
- LaBella will send a GIS technician to the Town to work with and train the Town's field personnel to collect land-based manhole and sewer data for one full week.
- LaBella will perform the necessary research to determine if easements exist for the land-based sewers.

**RECOMMENDED MOTION AND REQUESTED ACTIONS:**

N/A

**FUNDING SOURCE:**

American Rescue Plan Grant

**ATTACHMENTS:**

Proposed Adjustments for AIA Project Scope; Original Proposal for Preliminary Scope; Resolution No. 23-02-14B

**STAFF COMMENTS AND RECOMMENDATIONS:**

N/A



February 21, 2024 (via email only)

William H. Perkins, Town Manager  
Town of Lake Lure  
2948 Memorial Hwy  
Lake Lure, North Carolina 28746

SUBJECT: Town of Lake Lure 2022 AIA Project (Task 14)  
Adjustments to Proposal for Engineering Services

Dear Hank:

Progress on the subject project has been under way since authorization was received from the Town in February 2023. The Town, however, chose to conduct a portion of the previously-scoped LaBella effort, while LaBella's effort has been focused on GIS development and support, and completion of the Bathymetric survey.

Recently, we met with the Town (Dean Lindsey and Randy Rollins) to determine where the Town's efforts stood, and how much of the funding the Town has expended, in order to plan for completion of the Work. That discussion revealed a potential amount of grant funding that will be unused unless reallocated to additional tasks not previously scoped.

The following scope items are therefore proposed to be added, and LaBella anticipates invoicing only portions of scope items 1 and 2 (Project Management and Data Review / Analysis), and not invoicing scope item 5 or the T&M scope items at all. (The smoke testing was performed with Town forces and the CCTV inspection downstream of Lake-side manholes proved infeasible due to the excessive slope of the sewers.)

6. The Town will spend \$20,000 (10% - the maximum portion of the grant allowable) on software and/or equipment. This is expected to include a (portion of the cost of a) Trimble GPS unit, and the already-purchased GIS License, which was previously covered under scope item 5 and expected to be purchased by LaBella. *The Town will need to provide certification to DEQ-DWI that the balance of the cost of items partially paid by AIA grant funds will be covered by other funds available to the Town.*
7. LaBella will send a GIS technician to the Town to work with and train the Town's field personnel to collect land-based manhole and sewer data for one full week. This will include training on the Town's new Trimble unit as well as mobile data collection applications LaBella has developed for the Town.
8. As the Town has little or no information on-hand for easements they may or may not have for the land-based sewers, LaBella will perform the necessary research to determine if they exist and if so, establish GIS-level mapping and documentation of the easements.

The resulting revised budget allocation is as indicated in the attached table. We have reviewed this with NCDEQ-DWI on February 21 and received verbal and also written follow-up concurrence, which is forwarded to you, accompanying this letter.

Please advise if this proposed revision is acceptable to the Town. We appreciate your continued confidence in LaBella Associates.

Sincerely,  
LaBella Associates, P.C.

Brian Houston, PE  
Water/Wastewater Market Leader





Task & Description (* see notes below)	Budget	Status	Already spent & by...	To be spent
1* Overall Project Management & Field Observation	\$26,500	Ongoing	LaBella \$13,250	LaBella \$9,171
2* Data Review, Analysis, & Condition Assessment (includes GIS data updates)	\$32,450	Ongoing	LaBella \$11,335	LaBella \$11,380
3 Preparation of Final Report	\$31,000	Starting	\$0	LaBella \$31,000
4 Bathymetric Survey	\$31,350	COMPLETE	LaBella \$31,350	\$0
5 GIS License for Town (part of max 10% of Grant Fund - see Line 6 below)	\$3,000	PURCHASED	Town \$3,871	\$0
<b>TOTAL LUMP SUM FEE</b>	<b>\$124,300</b>		<b>\$59,806</b>	<b>\$51,551</b>
A CCTV Inspection	\$55,000	Abandoned	\$0	n/a \$0
B Smoke Testing	\$20,700	COMPLETE	Town \$24,498	\$0
<b>TOTAL TIME &amp; MATERIALS FEE</b>	<b>\$75,700</b>		<b>\$24,498</b>	<b>\$0</b>

**GRAND TOTAL**

\$200,000 \$84,304 \$51,551

**SPENT OR ALREADY ALLOCATED BUT NOT YET SPENT**

\$135,855

**Additional / Not Previously Scoped (i.e., Requests for Scope Change)**

6 Hardware & Equipment (Trimble GPS Unit, Plotter for GIS Maps)	(max 10% of Grant Fund)	Town	\$16,129
7 Perform Field Data Collection of Land-Based Manholes & Sewers		LaBella	\$20,016
8 Easement Investigation and Mapping (Licensed Surveyor)		LaBella	\$28,000

**REQUESTED REALLOCATION TOTAL**

\$64,145

**GRAND TOTAL**

\$200,000 \$200,000

**Net LaBella Total Invoices Anticipated**

\$155,502 (now)

**\* Notes**

1, 2 Most Task 1 & 2 scope items have not been performed by LaBella, but GIS work has been substantially more extensive than originally scoped, including developing the framework and field data collection tools for the Town's future use, and guidance & training on GIS implementation.



October 11, 2022

William H. Perkins, Town Manager  
Town of Lake Lure  
2948 Memorial Hwy  
Lake Lure, North Carolina 28746

SUBJECT: Town of Lake Lure 2022 AIA Project  
Proposal for Engineering Services

Dear Mr. Perkins,

LaBella Associates, P.C. (LaBella) appreciates the opportunity to continue to work with the Town of Lake Lure (the Town). This proposal letter provides a Scope of Services, Fee Estimate, and anticipated Schedule related to the Town of Lake Lure 2022 AIA Project. This project is funded by an AIA grant and subject to the requirements therein.

### Scope of Services

**Task 1 - Project Management and Field Observation:** LaBella will Manage the overall Project and provide Field Observation Services for this project, including:

- Managing of the Contractor that will perform field services for the Project
- Specifying areas to conduct smoke testing, including:
  - Preparing field maps delineating sewers to smoke test utilizing the Town's existing GIS database
  - Preparing GIS data and system for the Contractor to input smoke testing results via GIS application in the field
- Specifying areas to conduct Closed Circuit Television (CCTV) Inspections, including:
  - Preparing field maps delineating sewers to CCTV
  - Onsite observation during CCTV inspections
- Coordinating Bathymetric Survey
- Weekly coordination with the Contractor(s) to review progress, issues, and receive data
- QA/QC review of data within 10 business days to provide quick feedback to the Contractor for corrections needed

LaBella has assumed that the field inspections will require no more than 15 visits to the site by LaBella Staff.

**Task 2 - Data Review, Analysis, and Condition Assessment:** LaBella will review smoke testing, CCTV, and bathymetric data, analyze the data for important condition and maintenance data points, and assess the inspected assets condition. This task will include:

- Review and analysis of smoke testing data for important data points, such as:
  - Storm drain connections, roof drain connections, smoke points in pavement or other ground areas, etc.
- Review of CCTV data, including:
  - PACP review of data including QA/QC of CCTV deliverable
  - Analysis of data by organizing data and reviewing each section of pipe inspected for maintenance and structural defects
  - Recommendations recorded for each pipe section inspected by CCTV
  - Severity Ranking for each pipe section inspected by CCTV
- Review of Bathymetric Survey, including:
  - Updating underwater sewer locations in GIS
- Collection System Map Updates, including:
  - Updating pipe and manhole GIS data in the Town's GIS database, based on field inspections



**Task 3 – Preparation of Final Report:** LaBella will prepare a report that details the field work completed, the findings of the field work, and recommendations for the inspected areas and the Town’s collection system, in general. The report will include estimated quantities for rehabilitation. LaBella has assumed that two rounds of comments will be provided by the Town and anticipates providing a 1<sup>st</sup> Draft, 2<sup>nd</sup> Draft, and Final Report.

**Fee Estimate**

Hayden Hoggard, PE will serve as the Project Manager for the 2022 AIA Project with Brian Houston, PE serving as Program Manager for the Lake Lure contract. Keith Garbrick will continue to serve as the Principal-In-Charge. Other staff assigned to this contract shall have appropriate experience for the assigned task.

This proposal is submitted as a combination lump sum / time and materials proposal. LaBella will continue to submit monthly invoices that track the percent complete for each lump sum task, and the hours and costs expended for each time and materials task. Invoices are payable within 30 days of receipt by the Town.

Under time and materials tasks, sub-consultants will be compensated at cost plus 10 percent, out of the budget. Reimbursable expenses shall be compensated at cost unless otherwise noted and shall be limited to the actual expenditures made by the Engineer during the performance of the work with respect to travel, postage, courier expenses, copies, printing, plots, permitting fees, photographs, maps, or other miscellaneous project expenses. Permitting and other regulatory fees may be paid directly the Town, or by LaBella upon the respective submissions and reimbursed at cost but are not included in the below Fees.

A summary of the budget for the scope of work described above is as follows:

<u>Lump Sum Phase Description</u>	<u>Fee</u>
<b>Task 1 – Overall Project Management and Field Observation</b>	<b>\$26,500</b>
<b>Task 2 – Data Review, Analysis, and Condition Assessment (includes GIS data updates)</b>	<b>\$32,450</b>
<b>Task 3 – Preparation of Final Report</b>	<b>\$31,000</b>
<b>Task 4 – Bathymetric Survey</b>	<b>\$31,350</b>
<b>Task 5 – GIS License for Town</b>	<b>\$3,000</b>
<b>TOTAL PROPOSED Lump Sum Portion of Fee:</b>	<b>\$124,300</b>

<u>T&amp;M Phase Description</u>	<u>Unit Price</u>	<u>Unit</u>	<u>Estimated Quantity</u>	<u>Fee</u>
<b>CCTV Inspection</b>	<b>\$5,500</b>	<b>Day</b>	<b>10</b>	<b>\$55,000</b>
<b>Smoke Testing</b>	<b>\$1.38</b>	<b>LF</b>	<b>15,000</b>	<b>\$20,700</b>
<b>TOTAL PROPOSED T&amp;M Budget:</b>				<b>\$75,700</b>

**TOTAL ESTIMATED PROJECT BUDGET: \$200,000**

The following assumptions were made to develop the Fee Estimate:

- The CCTV inspections will have a duration of no more than 10 working days
- The CCTV equipment can be driven onto the Town barge to access manholes by water
- LaBella will be onsite full time during the CCTV inspections and as needed during other field work
- Smoke testing will occur on dry land portions of the system for approximately 10,000 LF
- LaBella and subcontractors will not be responsible for any blockages, stuck equipment, or other damage caused to the sewer system during inspection work



**Schedule**

We anticipate requiring approximately 45 days to complete the field work after receipt of Notice to Proceed. 30 days will be required to review the data. The 1<sup>st</sup> draft will be submitted within 90 days after completion of field work. The 2<sup>nd</sup> draft will be submitted within 14 days after receipt of comments on the 1<sup>st</sup> draft. The final report will be submitted within 14 days after receipt of comments on the 2<sup>nd</sup> draft.

If this proposal is acceptable to the Town, please sign this proposal on the signature line below to authorize the scope defined in this proposal and return one copy to us. We appreciate the opportunity to continue our relationship with the Town of Lake Lure. If you have any questions or need additional information, please call me directly at (704) 249-8069

Sincerely,  
**LaBella Associates, P.C.**

Hayden M. Hoggard, P.E.  
Civil Engineer

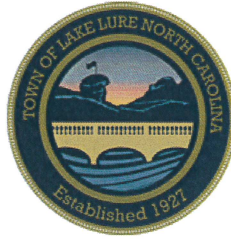
**Town of Lake Lure :**

By: William A. Pugh  
*Authorized Signature*

Title Town Manager

Date 2/15/23

This instrument has been  
preaudited in the manner required  
by the Local Government Budget  
and Fiscal Control Act



**RESOLUTION NO. 23-02-14B**

**RESOLUTION BY THE TOWN OF LAKE LURE TOWN  
COUNCIL ACCEPTING AMERICAN RESCUE PLAN  
FUNDING FOR SUBAQUEOUS SANITARY SEWER AIA**

**WHEREAS**, the American Rescue Plan (ARP) funded from the State Fiscal Recovery Fund was established in S.L. 2021-180 to assist eligible units of government with meeting their water/wastewater infrastructure needs, and

**WHEREAS**, the North Carolina Department of Environmental Quality has offered American Rescue Plan (ARP) funding in the amount of \$200,000 to perform an Asset Inventory and Assessment study detailed in the submitted application, and

**WHEREAS**, the Town of Lake Lure intends to perform said project in accordance with the agreed scope of work,

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Lake Lure, North Carolina:


**Section 1.** That the Town of Lake Lure does hereby accept the American Rescue Plan (ARP) offer of \$200,000.

**Section 2.** That the Town of Lake Lure does hereby give assurance to the North Carolina Department of Environmental Quality that any Conditions or Assurances contained in the Award Offer will be adhered to.

**Section 3.** That Town Manager William H. Perkins, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project; to make the assurances as contained above; and to execute such other documents as may be required by the Division of Water Infrastructure.

**READ, APPROVED, AND ADOPTED** this 14<sup>th</sup> day of February, 2023 at Lake Lure, North Carolina.

ATTEST:

  
Olivia Stewman, Town Clerk

  
Mayor Carol C. Pritchett

**LAKE LURE TOWN COUNCIL**  
**AGENDA REQUEST FORM**  
**Meeting Date: February 28, 2024**

**SUBJECT:** Update on Fiscal Year 2024 Rehabilitation of High Hazard Potential Dams Funding Opportunity

**AGENDA INFORMATION:**

**Item Number:** XX  
**Department:** Communications  
**Contact:** Laura Krejci, Communications Director  
**Presenter:** Laura Krejci, Communications Director

**BRIEF SUMMARY:**

On February 7, 2024 the NC Department of Environmental Quality's Dam Safety Office invited the Town of Lake Lure to apply for the Fiscal Year 2024 Rehabilitation of High Hazard Potential Dams (HHPD) Grant. These grants require a 35% match. Town Staff consulted with Schnabel Engineering and submitted an application package to the NC Dam Safety Office on February 22, 2024 for a Detailed Design for the replacement dam.

**BACKGROUND:**

The Town was invited to submit an application for the FY24 FEMA High Hazard Potential Dam (HHPD) Grant by the NC Dam Safety Office on 2/8/24.

- The Town of Lake Lure submitted an application package for the detailed design phase (Work Order 10B) for the replacement for the Lake Lure Dam on 2/22/24.
- The total cost of this project is (\$3,500,000).
- The Town of Lake Lure's match for this grant opportunity is 35% match, (\$1,225,000).
- The Town has applied for the remaining 65% (\$2,275,000) in grant funding.
- The FEMA HHPD Grant Process requires recipient to pay for the project upfront.
- When the project is complete, all invoices will be submitted to the NC Dam Safety Office through a prescriptive process.
- Once approved, the Town will be reimbursed for amount of the grant funding that is approved.
- The cost will be over three years as follows.  
Year 1: \$2,050,000  
Year 2: \$1,050,000  
Year 3: \$400,000

**RECOMMENDED MOTION AND REQUESTED ACTIONS:**

No further action is needed at this time.

**ATTACHMENTS:**

Schnabel Proposal 10B – Details Design

**FUNDING SOURCE:**

Dam Reserve Fund.

**STAFF COMMENTS AND RECOMMENDATIONS:**

Updates will be provided as new information becomes available.

February 21, 2024

Mr. Hank Perkins, MPA, ICMA-CM  
Town Manager  
Town of Lake Lure  
2948 Memorial Highway  
Lake Lure, NC 28746

**Subject: 18C21024.08P, Preliminary Proposal for Work Order No. 10B, Professional Dam Engineering Services for the Detailed Design of the Lake Lure Replacement Dam, Lake Lure, North Carolina**

Dear Mr. Perkins:

**SCHNABEL ENGINEERING SOUTH, P.C.** (Schnabel) is pleased to submit this preliminary work order proposal for professional dam engineering services associated with the detailed design of the replacement dam for the Town of Lake Lure (Town). This preliminary proposal is being submitted to support a funding request through FEMA's Rehabilitation of High Hazard Potential Dams (HHPD) grant program. This scope of work and associated fees for detailed design will need to be revisited and further developed as the preliminary design of the replacement dam progresses.

## **BACKGROUND**

On February 9, 2021, the Town adopted a policy for proceeding towards construction of a replacement dam. During the same meeting, the Town adopted a timeline to construct the replacement dam within about 10 years. This timeline was submitted to the North Carolina Department of Environmental Quality (NCDEQ) Dam Safety division on February 19, 2021, for review and approval.

On February 26, 2021, the Town was informed that FEMA had some additional grant funding available for fiscal year (FY) 2021 through their HHPD grant program. As a result, the Town requested that Schnabel provide a scope of work for initial tasks required for the replacement dam's conceptual design. Schnabel provided a scope of work for the conceptual design of the replacement dam on March 5, 2021, and the conceptual design was authorized by the Town on November 10, 2021, following the HHPD grant approval. A conceptual design of the replacement dam was presented to the Town during a Town Council working session on June 22, 2022, and Town Council adopted a resolution to accept the conceptual design on July 12, 2022.

During and/or following the conceptual design, the Town requested that Schnabel provide a scope of services to complete the field investigations and preliminary (30%) design for the replacement dam, which were submitted under the FY 2021 and 2022 FEMA HHPD grant programs, respectively. At the writing of



this preliminary proposal, the FEMA HHPD grants for the field investigations and preliminary design have not been approved.

### **GENERAL SCOPE OF SERVICES FOR DETAILED DESIGN PHASE**

The objective of our services proposed under this preliminary work order is to prepare a complete design for the Lake Lure replacement dam. This phase of design is herein referred to as the detailed design phase. The replacement dam will consist of a roller compacted concrete (RCC) gravity dam constructed immediately downstream of the existing dam and will be designed to meet NCDEQ Dam Safety requirements. We understand the replacement dam will not include hydroelectric facilities at this time, but the Town may want to consider adding hydroelectric facilities to the dam in the future. For the purposes of this proposal, we have also assumed that the NCDOT replacement bridge will be constructed off the replacement dam.

Detailed design cannot begin until the completion of the field investigations (Task 1) and preliminary design phase (Task 2), which are still waiting approval under separate HHPD grants. Since the scope of services for detailed design is highly contingent upon the results of the field investigations and preliminary design, the scope of services for detailed design presented herein should be considered preliminary and is primarily based on our past experience with similar large dam engineering infrastructure projects.

Detailed design will be divided into three tasks/milestones: 60% design (Task 3), 90% design (Task 4), and 100% design (Task 5). The design will be progressed at each stage to include similar tasks to those outlined in the Work Order 9 proposal for preliminary design, including site civil design, hydrology and hydraulic analysis and design (including control of water and stream diversion), structural analysis and design, geologic/geotechnical analysis and design, and mechanical analysis and design. The detailed design deliverables will include a design report presenting the basis of the design and results of engineering analyses, design drawings, technical specifications, construction cost opinion, and construction schedule estimate. We will also coordinate with an outside consultant to perform independent constructability reviews of the design. At each milestone, the design deliverables will be provided to the Town for review and we will hold a design review workshop with Town representatives to obtain additional feedback. A meeting with NCDEQ Dam Safety will be held at the 60% and/or 90% design stages. The 90% design deliverables will be submitted to NCDEQ Dam Safety and other regulatory agencies for review and approval, and we will incorporate regulatory review comments in the 100% design package which can then be issued for bid (IFB). It should be noted that this preliminary work order proposal does not include permitting services, which will be extensive for this project. Permitting services will need to be addressed under a separate work order proposal(s).

Design services for this project will be performed under the supervision of a Professional Engineer(s) licensed in the State of North Carolina.

### **EXCLUSIONS**

Services not specifically identified above are not included in the scope of services under this agreement. The following services are specifically not included in our proposed scope:

- Hydroelectric facility design

- Bridge design
- Additional field investigations beyond those included in Work Order No. 9
- Permitting services and fees
- Funding acquisition support
- Bid phase services
- Construction phase services
- Post-construction monitoring

**PRELIMINARY PROJECT FEES**

The preliminary lump sum fees for the detailed design of the replacement dam are shown in the table below. Based on the tentative schedule outlined below, these fees have been escalated to 2027 dollars, the estimated mid-point of the detailed design schedule. The fee for work requested beyond the scope of services included herein will be based on our current unit prices at the time the work is authorized or a negotiated lump sum.

<b>Task</b>	<b>Preliminary Lump Sum Fee (2027 Dollars)</b>
Task 3 – 60% Design	\$1,700,000
Task 4 – 90% Design	\$1,400,000
Task 5 – 100% Design	\$400,000
<b>Total Preliminary Lump Sum Fee:</b>	<b>\$3,500,000</b>

**TENTATIVE SCHEDULE**

Detailed design services cannot begin until the field investigations and preliminary design are complete. Upon completion of the preliminary design, we estimate approximately 10 months to complete the 60% Design, 8 months to complete the 90% Design, and 4 months to complete the 100% Design. The 90% Design package will be used to support project permitting, which is not included in this scope of work. Project permitting could take up to one year to complete. Development of the 100% Design (IFB) package will be performed as project permitting is being completed. An estimated overall project design and permitting schedule is included below. This schedule estimate is based on the assumption that the field investigations and preliminary design will be authorized by the end of June 2024.

<b>Task</b>	<b>Estimated Duration</b>	<b>Estimated Schedule</b>
Task 1 – Field Investigations (Included in Work Order 9)	12 months	July 2024 – June 2025
Task 2 – 30% Design (Preliminary Design) (Included in Work Order 10A)	9 months	April 2025 – December 2025
Task 3 – 60% Design	10 months	January 2026 – October 2026
Task 4 – 90% Design	8 months	November 2026 – June 2027
Task 5 – 100% Design	4 months	March 2028 – June 2028
Task 6 – Permitting (Not Included in this Scope of Work)	~12 months	April 2027 – April 2028

**PAYMENTS**

Invoices will be submitted monthly as a percentage of completion of the lump sum fee. Payment terms will be in accordance with the Professional Services Agreement between Schnabel and the Town (Attachment 1).

**GENERAL**

The Terms and Conditions of the Professional Services Agreement between Schnabel and the Town will apply to the services proposed herein. This preliminary work order proposal will be updated during the preliminary design phase and submitted for the Town’s formal acceptance at that time.

We appreciate the opportunity to submit our preliminary proposal for the detailed design of the replacement dam and look forward to continuing to work with the Town on this project. Please contact us if you have any questions regarding this preliminary proposal.

Sincerely,

**SCHNABEL ENGINEERING SOUTH, P.C.**



Jonathan M. Pittman, PE  
Project Manager / Senior Vice President

BFS:JMP:MEL

Attachments:

- (1) Professional Services Agreement and Terms and Conditions (5 sheets)

## PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement ("Agreement"), dated as of September 12, 2018 (the "Effective Date"), is by and between the **Town of Lake Lure** (hereinafter "Client"), with an office at 2948 Memorial Highway, Lake Lure, NC 28746 and **Schnabel Engineering South, P.C.** (hereinafter "Consultant") with an office at 11-A Oak Branch Drive, Greensboro, NC 27408 (hereinafter collectively "Parties").

This Agreement is specific to services ("Services") required to rehabilitate and/or upgrade Lake Lure Dam, its hydro-electric generating facility, and appurtenances to meet NCDEQ Dam Safety requirements and extend the service life of the facility ("Project"). Services may include review of existing documents, investigation of the existing condition of the structure, analysis of existing and proposed conditions, design of repairs or modifications, bidding support, construction administration and oversight, and related services. The work will be performed in phases, and the Scope of Work, fees and method of compensation, schedule, and deliverables of service will be presented in individual Task Order Proposals for each phase. Services provided under this Agreement will be performed under the supervision of a Professional Engineer licensed in the State of North Carolina.

In consideration of the mutual agreements herein expressed, the Parties contract, covenant, and agree as follows:

### 1. SCOPE OF SERVICES/COMPENSATION.

1.1 Consultant shall perform the Services set forth in individual Task Orders, which shall be governed by this Agreement. Each executed Task Order shall include the Scope of Work, fee compensation amounts and method of billing, the schedule of performance, and descriptions of the deliverables of Services..

1.2 Client shall pay Consultant for Services rendered under this Agreement on the basis set forth in each executed Task Order.

**2. TERM OF AGREEMENT.** Upon execution by the Parties, this Agreement shall have the Effective Date as set forth above and shall remain in force until all obligations related to the Services have been fulfilled, unless sooner terminated as provided herein.

### 3. ENTIRE AGREEMENT.

3.1 The Agreement between Consultant and Client consists of this Agreement, executed Task Orders, and any exhibits or attachments attached or incorporated herein. Together these elements will constitute the entire Agreement, superseding all prior written or oral negotiations, statements, representations, correspondence, and/or agreements. The Services to be provided by Consultant pursuant to this Agreement are described in each executed Task Order and include the Scope of Work. Both Client and Consultant must mutually acknowledge any changes to this Agreement in writing. All work performed by Consultant on or relating to the Project is subject to the terms and limitations of this Agreement.

3.2 If work is performed, but the parties do not reach agreement concerning modifications to the Scope of Work or compensation, then the terms and conditions of this Agreement apply to such work. Disputes concerning modifications to Scope of Work or compensation shall be resolved pursuant to Article 15, "Dispute Resolution."

### 4. STANDARD OF CARE, DISCLAIMER OF WARRANTIES.

4.1 Consultant shall perform Services under this Agreement in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. NO OTHER REPRESENTATION AND NO WARRANTY OR GUARANTEE, EITHER EXPRESS OR IMPLIED, IS INCLUDED OR INTENDED BY THIS AGREEMENT.

### 5. SITE ACCESS, SITE CONDITIONS, SAMPLES.

5.1 Client will provide rights of entry and access for Consultant to perform its Services.

5.2 Consultant will take reasonable precautions to avoid damage or injury to subterranean structures or utilities in the prosecution of his work. Client agrees to advise Consultant of known or

suspected underground features in the area of the work, and Consultant will not be responsible for damage to below grade features not brought to its attention, or incorrectly shown on plans provided.

5.3 Client shall promptly pay and be responsible for the removal and lawful disposal of contaminated samples and cuttings, and hazardous substances, unless other arrangements are mutually agreed in writing.

## **6. OWNERSHIP OF DOCUMENTS, RESTRICTIONS ON REUSE.**

6.1 All documents, including opinions, conclusions, certificates, reports, drawings and specifications and other documents, prepared or furnished by Consultant and Consultant's independent professional consultants pursuant to this Agreement (collectively "Documents") are instruments of Service. Consultant retains all ownership and property interests in the Documents, including all common law, statutory and other reserved rights, including copyrights, whether or not the Project is completed. Consultant will provide signed and sealed versions of the final deliverables to the Client in both hard copy and electronic format. Client may make and retain copies of them for information and reference in connection with permitting, financing, bidding and construction of renovations and facility improvements relating to the Lake Lure Dam, Hydro-electric Plant and appurtenances as addressed by this Project; however, such copies are not intended or represented to be suitable for reuse by others, and may not be used on other projects or for additions to this Project outside the Scope of the Work.

6.2 At Client's request, Client may negotiate with Consultant to acquire ownership of Documents for a mutually agreed amount. If Client acquires ownership of Documents prepared by Consultant, Client agrees: a) that any subsequent reuse or modification of them by Client or any party obtaining them through Client will be at Client's sole risk and without liability to Consultant, and b) Client will defend, indemnify and hold harmless Consultant from and against any claims, damages, and liabilities arising from or related to any use, reuse or modification of Documents by Client or any party obtaining them through Client. Client agrees that Consultant may retain copies of all documents for its files.

6.3 Electronic communications and CADD data transferred by Email, websites or computer disks (collectively "E-Data") are provided only as an accommodation by Consultant for the benefit of Client. Signed paper prints of documents constitute the contract deliverables. Client assumes the risk that E-Data may differ from the paper deliverables. Client agrees to indemnify and hold harmless Consultant from and against claims, damages, and liabilities for defects or inappropriate use of E-Data created or transmitted by Consultant.

## **7. THIRD PARTY RELIANCE UPON DOCUMENTS.**

7.1 Consultant's performance of the Services, as set forth in this Agreement, is intended solely and exclusively for the Client's benefit and use. No party may claim under this Agreement as a third party beneficiary. Client agrees not to distribute, publish or otherwise disseminate Consultant's Documents, without first obtaining Consultant's prior written consent.

7.2 No third party may rely upon Consultant's Documents including, but not limited to, opinions, conclusions, certificates, reports, drawings and specifications unless Consultant has agreed to such reliance in advance and in writing.

## **8. ASSIGNMENT, SUBCONTRACTING.**

8.1 Neither Client nor Consultant may delegate, assign, sublet, or transfer all or any part of this Agreement, including its duties or interest in this Agreement without the written consent of the other party.

8.2 Notwithstanding Section 8.1, Consultant may subcontract subsurface exploration, testing, and other supplemental services without notification or consent of Client.

## **9. TERMINATION, SUSPENSION.**

9.1 Termination for Convenience. The Client may terminate this Agreement for its convenience upon twenty-one (21) days written notice to Consultant. In the event of termination for convenience, Consultant shall be compensated for all services satisfactorily performed and costs incurred up to the effective date of termination for which Consultant has not been previously compensated. Consultant shall not be reimbursed for anticipatory profits.

9.2 Termination for Cause. The Client may terminate this Agreement upon fourteen (14) days written notice may terminate this Agreement if Consultant fails to substantially perform through no fault of Client and does not commence correction of such performance within five (5) days of written notice and

diligently complete the correction thereafter. In the event of termination for fault, Consultant shall be compensated for all services satisfactorily performed and costs incurred up to effective date of termination for which Consultant has not been previously compensated. All costs and charges incurred by Client to complete the Services beyond the total compensation available under this Agreement when terminated shall be deducted from any compensation due or which may become due to Consultant, and to the extent such deduction is insufficient to cover such costs and charges to Client, Consultant shall be and remain liable to pay Client the amount of such excess.

9.3 Client's Failure to Pay. In the event of any failure of payment by Client when due, Consultant shall have the right to suspend work on the Project and may retain any and all work products whether prepared by Consultant or submitted to Consultant by others, until payment has been brought current. In such event, Consultant shall have no liability for any damages or losses that may result from any delay associated the suspension of work or for the withholding of work products. If Client's failure to pay continues for more than sixty (60) days, Consultant may terminate this Agreement effective upon written notice to Client.

#### **10. ALLOCATION OF RISK.**

10.1 Consultant's total cumulative liability to Client (including, but not limited to, attorneys' fees and costs awarded under this Agreement) irrespective of the form of action in which such liability is asserted by Client or others, shall not exceed the total compensation received by Consultant under this Agreement or \$3,000,000, whichever is greater.

10.2 Client and Consultant agree to limit each's liability to the other in the following respects: Neither party will have liability to the other for any special, consequential, incidental, exemplary, or penal losses or damages including but not limited to losses, damages or claims related to the unavailability of the other party's property or facility, shutdowns or service interruptions, loss of use, lost profits or revenue, inventory or use, charges or cost of capital or claims of the other party's customer.

10.3 The limitations of liability of this Agreement shall survive the expiration or termination of this Agreement.

#### **11. INSURANCE.**

11.1 Consultant shall procure and maintain for the duration of the Project and three years following, with insurance carriers reasonably acceptable to the Client, the following insurance coverage:

- (a) Commercial General Liability on an occurrence form, including coverage for premises and completed operations/products, Contractual Liability, General Aggregate per Project, "xcu" coverages
  - \$1,000,000 each occurrence
  - \$ 10,000 Medical Expenses
  - \$1,000,000 Personal and Advertising Injury
  - \$2,000,000 General Aggregate
  - \$2,000,000 Products/Completed Operations Aggregate
- (b) Automobile Liability - Including coverage for Owned, Hired, and Non-Owned Autos
  - \$1,000,000 Combined Single Limit
- (c) Workers Compensation and Employer's Liability
  - Statutory Limits for Workers Compensation
  - \$500,000 each accident
  - \$500,000 each occurrence by disease
  - \$500,000 by disease - policy limit
- (d) Umbrella Liability – applying over all above-referenced policies
  - \$10,000,000 each occurrence
- (e) Professional Liability
  - \$3,000,000 each claim
  - \$3,000,000 annual aggregate

11.2 Additional Insured. Except for Workers Compensation and Professional Liability, policies shall include Client as Additional Insured on a primary and noncontributory basis, to include ongoing and completed operations.

## **12. INDEMNIFICATION.**

12.1 Indemnification of Client. Subject to the provisions and limitations of this Agreement and to the extent allowable by law, Consultant agrees to indemnify and hold harmless Client, its shareholders, officers, directors, employees, and agents from and against any and all claims, suits, liabilities, damages, expenses (including without limitation reasonable attorney's fees and costs of defense) or other losses (collectively "Losses") to the extent caused by Consultant's negligent performance of its Services under this Agreement.

12.2 Indemnification of Consultant. Subject to the provisions and limitations of this Agreement and to the extent allowable by law, Client agrees to defend, indemnify and hold harmless Consultant from and against any and all claims by third parties related to services provided by Consultant under this Agreement, and against any and all Losses to the extent caused by the negligence of Client, its employees, agents and contractors. In addition, except to the extent caused by Consultant's sole negligence, Client expressly agrees to defend, indemnify and hold harmless Consultant from and against any and all Losses arising from or related to the existence, disposal, release, discharge, treatment or transportation of Hazardous Materials, or the exposure of any person to Hazardous Materials, or the degradation of the environment due to the presence, discharge, disposal, release of or exposure to Hazardous Material.

## **13. INVOICES, PAYMENTS.**

13.1 Payment is due without retainage upon presentation of invoice and is past due thirty (30) days from invoice date, and will not be contingent upon receipt of funds from third parties. Client agrees to pay a service charge of one percent (1%) per month or fraction thereof on past due payments under this Agreement.

13.2 It is further agreed that in the event a lien or suit is filed to enforce overdue payments under this Agreement, Consultant will be reimbursed by Client for all costs of such lien or suit and reasonable Attorney's fees in addition to accrued service charges, where the court of appropriate jurisdiction enters a finding in favor of Consultant.

**14. NOTICE.** All notices, requests, claims, demands and other communications hereunder shall be in writing. Such notices shall be given (i) by delivery in person, (ii) by a nationally recognized commercial courier service; or (iii) by United States Postal Service, registered mail, postage prepaid and return receipt requested. Notices shall be effective upon actual delivery at the following addresses:

**Client:** Town of Lake Lure  
2948 Memorial Highway  
Lake Lure, NC 28746

**Consultant:** Schnabel Engineering South, P.C.  
11-A Oak Branch Drive  
Greensboro, NC 27407

or to that address which the receiving Party may from time to time give notice to the other Party in writing. Rejection or other refusal to accept, or the inability to deliver because of changed address of which no notice was given, shall be deemed to be receipt of the notice as of the date of such rejection, refusal to accept or inability to deliver.

## **15. DISPUTE RESOLUTION.**

15.1 Claims, disputes, and other matters in controversy between Consultant and Client caused by or any way related to this Agreement will be submitted to non-binding mediation as a condition precedent to litigation. The cost for mediation including the mediator's fees, reproduction of documents, and miscellaneous out-of-pocket expenses will be borne equally by each party to this Agreement.

15.2 The law of the State of North Carolina will govern the validity of these terms, their interpretation and performance. Client and Consultant agree that venue for any litigation will be in the courts of the State of North Carolina, and Consultant and Client both hereby waive any right to initiate any action in, or remove any action to, any other jurisdiction.

**16. FORCE MAJEURE.**

16.1 Any delay in or failure of performance of, either party to this Agreement shall not constitute a default, if and to the extent such delay or failure is caused by occurrences beyond the reasonable control of the party affected, including but not limited to, acts of God or the public enemy, acts of war, public disorder, insurrection, rebellion, sabotage, flood, riot, or any causes a party is unable, with reasonable diligence, to prevent; provided, however, that a party who is prevented from performing for any reason shall immediately notify the other party in writing of the reason for the non-performance and the anticipated extent of any delay.

**17. SEVERABILITY.**

17.1 This Agreement reflects the entire agreement of the parties with respect to its terms and supersedes all prior agreements, whether written or oral. If any portion of this Agreement is void or voidable, such portion will be deemed stricken and the Agreement reformed to as closely approximate the stricken portions as the law allows.

**IN WITNESS WHEREOF**, the parties, by their duly authorized representatives, have hereunto executed this Agreement, on the day and year first above written.

**CONSULTANT:**

**Schnabel Engineering South, PC**

By: [Signature]

Name: Jonathan Pittman  
(print)

Title: Senior Vice President

Date: September 15, 2018

**CLIENT:**

**Town of Lake Lure**

By: [Signature]

Name: Kurtis J. Conkey  
(print)

Title: Mayor

Date: September 15, 2018

**Exhibits:**

None  
Rev 2018-08



**LAKE LURE TOWN COUNCIL  
AGENDA REQUEST FORM  
Meeting Date: February 28, 2024**

**SUBJECT:** Fire Apparatus Appropriation Request to the General Assembly

**AGENDA INFORMATION:**

**Item Number:** XXI  
**Department:** Communications  
**Contact:** Hank Perkins, Town Manager & Dustin Waycaster, Fire Chief  
**Presenter:** Hank Perkins, Town Manager & Dustin Waycaster, Fire Chief

**BRIEF SUMMARY:**

At a previous work session and action meeting, Town Council met with The Policy Group and it was determined that the Town would like to request an appropriation for either a fire apparatus or a future fire facility during the 2024 short legislative session. Town staff has a draft letter prepared with the help of The Policy Group to send to legislators Jake Johnson and Tim Moffitt. It has been determined that the best course of action is to request an appropriation of \$925,000 for the fire apparatus during the upcoming short session. The plan also includes a future request to the general assembly next year for consideration of assistance with the future public safety facility.

**RECOMMENDED MOTION AND REQUESTED ACTIONS:**

N/A

**ATTACHMENTS:**

The draft letter to legislators will be available at the time of the meeting.

**STAFF COMMENTS AND RECOMMENDATIONS:**

N/A

**LAKE LURE TOWN COUNCIL  
AGENDA ITEM REQUEST FORM  
Meeting Date: February 28, 2024**

**SUBJECT:** Project Manager Updates

**AGENDA INFORMATION:**

**Item Number:** XXII  
**Department:** Project Management  
**Contact:** Michael Dydula, Project Manager  
**Presenter:** Michael Dydula, Project Manager

**BRIEF SUMMARY:**

Project Manager Mike Dydula will provide Council with an update in regard to ongoing major projects.

**LAKE LURE TOWN COUNCIL**  
**AGENDA ITEM REQUEST FORM**  
Meeting Date: February 28, 2024

**SUBJECT:** Town Manager Updates

**AGENDA INFORMATION:**

**Item Number:** XXIII  
**Department:** Administration  
**Contact:** Hank Perkins, Town Manager  
**Presenter:** Hank Perkins, Town Manager

**BRIEF SUMMARY:**

Town Manager Hank Perkins will provide Council with any updates that are not included on the meeting agenda. Council will also have the opportunity to ask any questions.

# XXIV

## CLOSED SESSION

*In accordance with with G.S. 143-318.11 (a) (5) for the purpose of discussing property acquisition and G.S. 143-218.11 (a) (3) for attorney client privilege.*

**XXV**

**ADJOURNMENT**