

LAKE LURE TOWN COUNCIL WORK SESSION PACKET

Wednesday, March 22, 2023
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 Meeting

Wednesday, March 22, 2023 - 8:30 AM

Lake Lure Municipal Center



Agenda

- I. Call to Order**
- II. Agenda Adoption**
- III. Lake Lure Flowering Bridge Parking Lot Request – Page 1**
- IV. Discuss Lake Lure Flowering Bridge 10 Year Lease – Page 5**
- V. Fire/Emergency Services Department Personnel Discussion – Page 13**
- VI. Discuss Rutherford County Tourism Development Authority Lease – Page 14**
- VII. Chimney Rock Village Agreement to Operate Water System Update – Page 27**
- VIII. Review Draft Capital Ordinance for Drain Valve Installation – Page 37**
- IX. Discuss Public Works Building and Equipment Laydown Area – Page 41**
- X. Human Resources / Customer Services Specialist Job Description – Page 42**
- XI. Review Olympiad Lure of the Lake Swim Event Request for Waivers – Page 55**
- XII. Town Email Discussion – Page 56**
- XIII. Project Updates – Page 57**
- XIV. Town Manager Updates – Page 60**
- XV. Lake Drawdown Schedule Update – Page 61**
- XVI. Fireworks Discussion – Page 62**
- XVII. ABC Store Move – Page 63**
- XVIII. Schnabel Work Order No. 7A - Reservoir Drain Construction Services – Page 64**
- XIX. Adjournment**

**LAKE LURE TOWN COUNCIL
AGENDA ITEM REQUEST FORM
Meeting Date: March 22, 2023**

SUBJECT: Lake Lure Flowering Bridge Parking Lot Request

AGENDA INFORMATION:

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

BRIEF SUMMARY:

During the January 25th work session meeting, Council discussed a request from the Lake Lure Flowering Bridge (LLFB) for the Town's assistance with funding for volunteer parking in the amount of \$8,000. Town Council expressed support, but one possibility discussed was that the parking lot may be funded by the Rutherford County Tourism Development Authority and this was discussed by the Steering Committee and Mr. Don Cason with the TDA. It was determined that the LLFB must be a member of Rutherford Bound in order to apply for TDA funding, aside from marketing and event grants. The Flowering Bridge has since obtain a quote for the completion of the parking lot and has asked to resume discussion in regard to their original request for the Town's assistance.

ATTACHMENTS:

Request from the LLFB for Town Assistance with Funding Volunteer Parking; Quote for Completion of the Parking Lot



P.O. Box 125, Lake Lure, NC 2874
lakelurefloweringbridge.org
Volunteer 501(c) 3 Nonprofit Organization

Lake Lure Town Council
PO Box 255
Lake Lure, NC 28746

January 9, 2023

Dear Mayor Pritchett,

The Lake Lure Flowering Bridge Board of Directors thanks you for your unwavering support. We specifically appreciate the time taken by the council members to hear our plans for a new education center. The subject of this letter is to request funding for a new LLFB volunteer parking area as part of our education center project.

We are requesting \$8,000 to build the new volunteer parking area. This money will cover the gravel, road fabric, and labor. The LLFB has raised a significant amount of money through grants and donations to support the building of the new education center. We have a long way to go. Your support in terms of the volunteer parking would be a great help.

As we've shared with you at Council working sessions and meetings, we plan to build the education center on the site of the current LLFB parking area. In addition to working through all of the permitting requirements for the project, we are working with the Town of Lake Lure, North Carolina Department of Transportation, and Chimney Rock State Park to design a visitor parking area on the opposite side of Boys Camp Road.

We have agreement from all necessary parties to build the volunteer parking area behind our existing tool shed. For your convenience, we've enclosed survey drawings and plans that highlight the location. The volunteer parking area will be a simple gravel bed and will free up valuable parking for visitors.

We are prepared to present this request to a working session and/or Council meeting as you determine necessary. We look forward to the new education center and the opportunity to enhance the Lake Lure experience for all visitors.

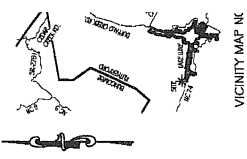
Sincerely,

A handwritten signature in cursive script that reads "Kathy Tanner".

Kathy Tanner
Chairperson, Lake Lure Flowering Bridge Board of Directors

Enclosure (1)

Volunteer Parking Trips

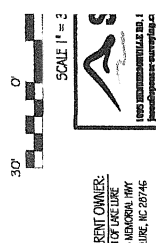


VICINITY MAP

LINE	BEARING	LENGTH
1	S 55° 54' 12" E	11.74
2	S 89° 02' 15" E	11.74
3	N 33° 03' 52" E	11.74
4	N 40° 49' 22" E	11.74
5	N 55° 02' 28" E	15.45
6	N 49° 52' 57" W	29.07
7	N 35° 52' 58" W	21.46
8	N 27° 17' 29" W	14.52
9	N 45° 55' 10" E	14.52
10	N 45° 55' 10" E	14.52
11	N 45° 55' 10" E	14.52
12	N 45° 55' 10" E	14.52
13	N 45° 55' 10" E	14.52
14	N 45° 55' 10" E	14.52
15	N 45° 55' 10" E	14.52
16	N 45° 55' 10" E	14.52
17	N 45° 55' 10" E	14.52
18	N 45° 55' 10" E	14.52
19	N 45° 55' 10" E	14.52
20	N 45° 55' 10" E	14.52
21	N 45° 55' 10" E	14.52
22	N 45° 55' 10" E	14.52
23	N 45° 55' 10" E	14.52
24	N 45° 55' 10" E	14.52
25	N 45° 55' 10" E	14.52
26	N 45° 55' 10" E	14.52
27	N 45° 55' 10" E	14.52
28	N 45° 55' 10" E	14.52
29	N 45° 55' 10" E	14.52
30	N 45° 55' 10" E	14.52
31	N 45° 55' 10" E	14.52
32	N 45° 55' 10" E	14.52
33	N 45° 55' 10" E	14.52
34	N 45° 55' 10" E	14.52
35	N 45° 55' 10" E	14.52
36	N 45° 55' 10" E	14.52
37	N 45° 55' 10" E	14.52
38	N 45° 55' 10" E	14.52
39	N 45° 55' 10" E	14.52
40	N 45° 55' 10" E	14.52
41	N 45° 55' 10" E	14.52
42	N 45° 55' 10" E	14.52
43	N 45° 55' 10" E	14.52
44	N 45° 55' 10" E	14.52
45	N 45° 55' 10" E	14.52
46	N 45° 55' 10" E	14.52
47	N 45° 55' 10" E	14.52
48	N 45° 55' 10" E	14.52
49	N 45° 55' 10" E	14.52
50	N 45° 55' 10" E	14.52
51	N 45° 55' 10" E	14.52
52	N 45° 55' 10" E	14.52
53	N 45° 55' 10" E	14.52
54	N 45° 55' 10" E	14.52
55	N 45° 55' 10" E	14.52
56	N 45° 55' 10" E	14.52
57	N 45° 55' 10" E	14.52
58	N 45° 55' 10" E	14.52
59	N 45° 55' 10" E	14.52
60	N 45° 55' 10" E	14.52
61	N 45° 55' 10" E	14.52
62	N 45° 55' 10" E	14.52
63	N 45° 55' 10" E	14.52
64	N 45° 55' 10" E	14.52
65	N 45° 55' 10" E	14.52
66	N 45° 55' 10" E	14.52
67	N 45° 55' 10" E	14.52
68	N 45° 55' 10" E	14.52
69	N 45° 55' 10" E	14.52
70	N 45° 55' 10" E	14.52
71	N 45° 55' 10" E	14.52
72	N 45° 55' 10" E	14.52
73	N 45° 55' 10" E	14.52
74	N 45° 55' 10" E	14.52
75	N 45° 55' 10" E	14.52
76	N 45° 55' 10" E	14.52
77	N 45° 55' 10" E	14.52
78	N 45° 55' 10" E	14.52
79	N 45° 55' 10" E	14.52
80	N 45° 55' 10" E	14.52
81	N 45° 55' 10" E	14.52
82	N 45° 55' 10" E	14.52
83	N 45° 55' 10" E	14.52
84	N 45° 55' 10" E	14.52
85	N 45° 55' 10" E	14.52
86	N 45° 55' 10" E	14.52
87	N 45° 55' 10" E	14.52
88	N 45° 55' 10" E	14.52
89	N 45° 55' 10" E	14.52
90	N 45° 55' 10" E	14.52
91	N 45° 55' 10" E	14.52
92	N 45° 55' 10" E	14.52
93	N 45° 55' 10" E	14.52
94	N 45° 55' 10" E	14.52
95	N 45° 55' 10" E	14.52
96	N 45° 55' 10" E	14.52
97	N 45° 55' 10" E	14.52
98	N 45° 55' 10" E	14.52
99	N 45° 55' 10" E	14.52
100	N 45° 55' 10" E	14.52

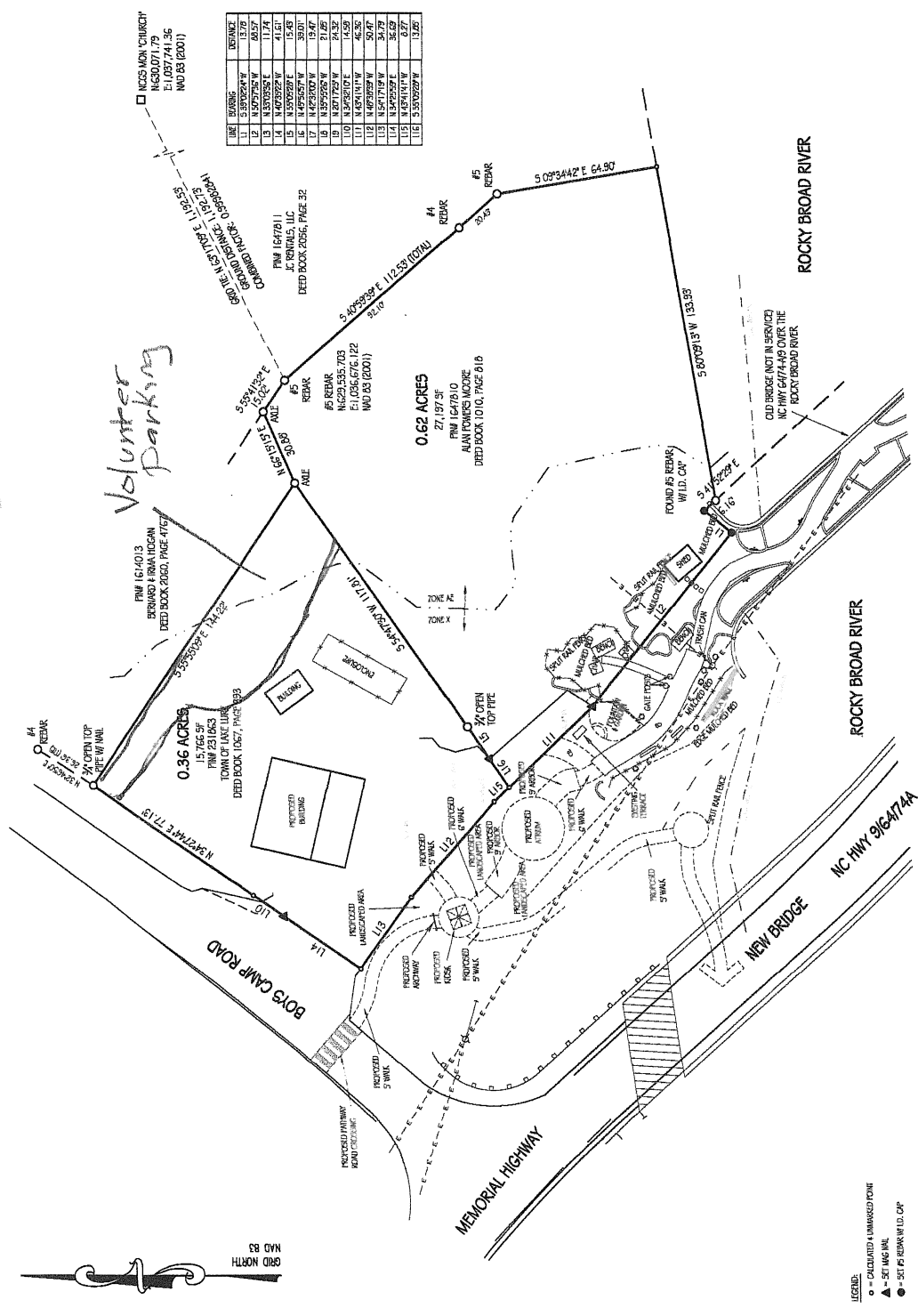
NOTES:
 ALL BEARS CALCULATED BY COORDINATE COMPUTATION
 THIS SURVEY WAS PREPARED WITHOUT BENEFIT OF ASBESTOS MAPPING OF TITLE SHOULD BE RETURNED TO AN ATTORNEY.
 THIS SURVEY MAY BE SUBJECT TO ALL RIGHTS OF WAYS, EASEMENTS, AND RESTRICTIONS WRITTEN AND UNWRITTEN AND RECORDED.
 * ADJOINING PROPERTY OWNER INFORMATION TAKEN FROM COUNTY GIS WEBSITE.
 * NO UNDERGROUND UTILITIES WERE LOCATED.
 CALL 1-800-452-4349 BEFORE DIGGING.
 * BASED ON GRAPHIC DETERMINATION A PORTION OF THIS ZONE AS (1% ANNUAL CHANCE FLOOD ZONE) PER COMMUNITY DEVELOPMENT DEPARTMENT DATED 7-2-08. THE FLOOD ZONE LINE AS SHOWN WAS SCALD FROM SAID FEMA MAP AND HAS NOT BEEN FIELD VERIFIED.
 * ANY RIVERS, STREAMS, CREEKS, PONDS, LAKES, WETLANDS OR OTHER FEATURES NOT SHOWN HEREON, MAN OR MACHINE MADE, ARE SHOWN AS APPROXIMATE LOCATIONS AS DETERMINED BY PHOTOGRAPHIC SURVEY AND AUTHORITY TO MAKE SUCH DETERMINATION.
 * ALL DISTANCES SHOWN HEREON ARE HORIZONTAL, GROUND UNLESS OTHERWISE NOTED.
 * BOUNDARY INFORMATION SHOWN HEREON FROM PLAT BOOK

UPDATE SURVEY
TOWN OF LAKE
 REFERENCE
 PLAT BOOK 221063
 PLAT BOOK 16791C
 PLAT BOOK 16791C
 PLAT BOOK 10101C
 PLAT BOOK 36, PA
 CHIMNEY ROCK TOWNSHIP, RUTHERFORD COUNTY, NEW JERSEY
 DATE: 11-7-2022 DRAWN BY: JTB
 JOB #1306025 CHECK



CURRENT OWNER:
 ANAN PARMES MOORE
 2540 MEMORIAL HWY
 MORRISTOWN, NJ 07960

CURRENT OWNER:
 ANAN PARMES MOORE
 2540 MEMORIAL HWY
 MORRISTOWN, NJ 07960



I HEREBY CERTIFY THAT THIS DRAWING IS A TRUE, ACCURATE, AND CORRECT REPRESENTATION OF THE AREA SHOWN, AND WAS PREPARED FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION, IN ACCORDANCE WITH THE LICENSE NUMBER AND SEAL THIS 25th DAY OF NOVEMBER, A.D., 2022.

John J. Moore
 L-7825
 LICENSE #
 N.C. PROFESSIONAL LAND SURVEYOR



From: Dale Shields shieldsgrading@gmail.com
 Subject: Flowering Bridge Estimate
 Date: Dec 12, 2022 at 12:11:16 PM
 To: kathyt3@gmail.com



2973 Highway 108
 Rutherfordton, NC
 28139

Office- (828)-286-8593
 Cell- (828)-223-0528
shieldsgrading@gmail.com
 Owner- Dale Shields

ESTIMATE

DATE- 12-12-2022

		HOURLY	CONTRACT
Bill to: Lake Lure Flowering Bridge			
ADDRESS:			
JOB NAME AND LOCATION:			
DESCRIPTION OF WORK			
Remove brush and grade out flat area	\$3,200		
Grade out lower parking area	\$3,000		
Gravel for lower parking area - 10 loads	\$4,500		
Geofabric for lower parking area	\$500		
10 loads of dirt - This may be cheaper if I can get dirt closer to job	\$3,000		
Thank you,			
Dale Shields			
TOTAL AMOUNT		\$14,200	

pd. project 1

pd. project 1

**LAKE LURE TOWN COUNCIL
AGENDA ITEM REQUEST FORM
Meeting Date: March 22, 2023**

SUBJECT: Discuss Lake Lure Flowering Bridge 10 Year Lease

AGENDA INFORMATION:

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

BRIEF SUMMARY:

At the March 14th regular meeting, Council approved a grounds lease agreement with the Lake Lure Flowering Bridge (LLFB) with a 12 month term. This short-term lease was approved in order to enter into the agreement in a timely manner while avoiding legally required 30-day notice deadline for lease agreements over one year, which would not allow the agreement to be approved until the April regular meeting and would delay the LLFB progress with their education center project. Both parties wish to enter a long-term agreement, so a 10 year agreement is being proposed as it is the longest term authorized without following sale of real property general statutes. However, the Town is in process of seeking a local bill to exceed the 10 year limit. Attorney William Morgan drafted a 10 year agreement, which is fundamentally the same as the 12 month agreement. More recently added stipulations include the Town's responsibility to ensure inspections and the addition of sewer to the list of utilities paid by the Town. The Town Clerk has sent notice that the Town will consider approving the 10 year agreement at the April 11th regular Council meeting.

ATTACHMENTS:

Draft 10 Year Lease with the Lake Lure Flowering Bridge

NORTH CAROLINA

RUTHERFORD COUNTY

GROUND LEASE AGREEMENT BETWEEN THE TOWN OF LAKE LURE AND LAKE
LURE FLOWERING BRIDGE, INC. FOR THE LEASE OF LAKE LURE BRIDGE NO. 7
AND A .36 ACRE LOT (PIN #23163)

This Land Lease Agreement (“Lease” or “Agreement”) is made and entered into this the 15th day of February, 2023, by and between the Town of Lake Lure, a North Carolina municipal corporation and Lake Lure Flowering Bridge, Inc., a nonprofit corporation organized and existing pursuant to the laws of the State of North Carolina (hereinafter referred to as LLFB).

WITNESSETH:

WHEREAS, the Town of Lake Lure acquired ownership of the historic Lake Lure Bridge No. 7 across the Rocky Broad River near the intersection of Boy’s Camp Road and US 64/74 in Lake Lure on August 10, 2010, for the rehabilitation, repair, and maintenance of Bridge No. 7 under the stipulations of a historic bridge preservation program; and,

WHEREAS, the Town of Lake Lure informally assigned the above responsibilities to Lake Lure Flowering Bridge, Inc. (hereinafter LLFB), a community-based nonprofit corporation, approximately ten years ago; and,

WHEREAS, LLFB was created to:

- To preserve the historic 1925 Bridge No.7 over the Rocky Broad River as it enters historic Lake Lure, NC.
- To develop and maintain this bridge as a vital link in the trail/walkway system being created by the towns of Chimney Rock and Lake Lure and Chimney Rock State Park.
- To cover the bridge and surround this scenic walkway with over 500’ of flowering four-season pedestrian gardens that will be known as Lake Lure Flowering Bridge, the first of its kind in the State of North Carolina and only the second in the United States.
- To place within this vast garden indigenous North Carolina plants that will reflect the botanical diversity of the Hickory Nut Gorge, one of the most botanically diverse areas in the United States.
- To make these gardens and the Lake Lure Flowering Bridge available in all seasons free of charge for purposes of education, exploration and inspiration.

- To design, develop and maintain these gardens through a citizen-based volunteer organization called Friends of the Lake Lure Flowering Bridge.
- To create this “bridge to somewhere beautiful” as a flowering gateway to Lake Lure, Chimney Rock, the Hickory Nut Gorge, and Chimney Rock State Park.

WHEREAS, LLFB now desires to erect a structure to house an education center, create new volunteer and visitor parking and to make other improvements to an area owned by the Town adjacent to the Bridge; and,

WHEREAS, the Town supports the LLFB’s plans and has determined that it is in the best interests of both parties to formalize their relationship for the long term preservation and operation of the Flowering Bridge, which attracts thousands of visitors to Lake Lure, Chimney Rock Village and Chimney Rock State Park each year;

NOW, THEREFORE, in consideration of all covenants contained in this lease agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Section 1: Lease of Premises. Owner agrees to lease to (“Tenant”), and (“Tenant”) agrees to lease from Owner, the Site for the purposes described herein, TO HAVE AND TO HOLD the Site, together with all rights, privileges, and appurtenances thereunto belonging and attaching, unto (“Tenant”). This Lease sets forth the covenants and agreements that the parties agree to comply with during the Term (as such term is defined in Section 2).

Section 2: Term. The term of this Lease (the “Term”) shall be ten (10) years, commencing on the Effective Date and expiring on the ten year anniversary of the Effective Date, unless otherwise terminated at an earlier date in accordance with the terms of this Lease, or extended by mutual agreement. It is the intent of the parties to amend this lease prior to the expiration date for a longer term.

Section 3: Lease Payments. For purposes of this agreement, the lease payments made to Owner by (“Tenant”) for the use of the Site and Easements shall be \$1.00 annually, payable upon the Effective Date and on the anniversary thereof each year during the term of this lease.

Section 4: The Premises (“the Site”). The Site consists of Lake Lure Bridge No. 7, the right-of-way and that .36 acre site adjacent thereto, more particularly described in Deed Book 1067, Page 393 (PIN #231863) all of which is more particularly shown in that survey dated November 19, 2022, prepared by Jason D. Spencer, PLS, a copy of which is attached hereto as Exhibit A.

Section 5: Use. LLFB shall at all times continue the Bridge’s use as a walking trail containing flowering four-season pedestrian gardens that will be known as Lake Lure Flowering Bridge, to be open year-round to visitors free of charge and for educational purposes including classes in gardening and related subjects.

Section 6: Responsibilities of LLFB and Town.

- (a) In addition to continuously maintaining the Bridge and the site's use as set forth in Section 5 above, it shall be the duty and responsibility of LLFB to fulfill all of the requirements placed on the Town by the State of North Carolina's Department of Transportation upon the conveyance of Bridge No. 7 including those outlined in the "Historic Lake Lure Bridge #7 Preservation and Enhancement Plan" dated December 5, 2011, attached hereto as Exhibit B and incorporated herein as if fully set forth herein. Notwithstanding the foregoing, the Town shall be responsible for arranging the required major inspection of the structure at least every two years and shall have the authority to temporarily close public access to the bridge as necessary to facilitate major inspections. If a major inspection or routine observations reveal a structural deficiency which makes the bridge unsafe for pedestrian use, the Town shall have the authority to temporarily close the bridge to the public while necessary repairs are made to the bridge.
- (b) The Town shall continue to provide water and electric service to the Lake Lure Flowering Bridge and will provide sewer for the educational center LLFB plans to construct on the property.

Section 7: Indemnification. To the extent permitted by law, LLFB agrees to indemnify, defend, and hold harmless the Town from any and all claims, actions, liabilities, suits, demands, damages, losses, or expenses, including attorneys' fees, arising out of or relating to (i) LLFB's use and occupancy of the Site, (ii) any work done by or on behalf of LLFB on the Site, (iii) LLFB's negligence or willful misconduct, and/or (iv) LLFB's breach or default of any of the terms of this Agreement, provided however, LLFB's obligations under this section shall not extend to any claims, actions, liabilities, suits, demands, damages, losses, or expenses arising from the sole negligence or willful misconduct of the Town.

Section 8: Hazardous Substances. LLFB will not keep or store on the Site any item of a dangerous, flammable, or explosive character that might unreasonably increase the danger of fire or explosion on the Site or that might be considered hazardous or extra hazardous by any responsible insurance company.

Section 9: Compliance with Laws. LLFB covenants and agrees to comply with all federal, state and local laws, regulations and ordinances affecting the Site and use of the Site, including applicable environmental laws. In addition, Tenant will comply with all requirements necessary to keep in force fire and liability insurance covering the Site and shall seek to name the Town as an additional named insured on such policies.

Section 10: No Mechanics Liens. LLFB will not permit any mechanics or other liens to be filed against Town's interest in the Site as a result of any work performed for or obligations incurred by LLFB. LLFB will indemnify the Town for any liability, cost, or expense, including attorney's fees, in the event any such lien is filed.

Section 11: Subordination of Ground Lease. LLFB shall not subordinate the **Ground Lease** or any interest thereunder to the lien of any mortgage, deed to secure debt or other security agreement encumbering the Town's interest in the Property or any portion thereof (each, a "Fee Mortgage") without the prior written consent of the Town.

Section 12: Anti-subrogation. Landlord and Tenant each waive any and all claims or rights to recovery against the other Party for any loss or damage to the extent such loss or damage is covered by insurance or would be covered by insurance as required under this Agreement. Landlord and Tenant will cause each insurance policy carried by Landlord or Tenant relating to the Site to include or allow a full waiver of any subrogation claims.

Section 13: Improvements and Alterations. Major improvements and alterations must be approved by the Town. LLFB agrees that any construction will be performed in a good and workmanlike manner and will comply with all applicable laws. All improvements, alterations, additions, or other changes to the Site shall become the property of the Town upon the termination of this Agreement.

Section 14: Condition of Site. LLFB has examined the Site and accepts the Site in its current condition “as is” and “with all faults.” Except as expressly set forth herein, the Town makes no representation or warranty, express or implied, or arising by operation of law, including but not limited to, any warranty of fitness for a particular purpose, merchantability, habitability, suitability, or condition. LLFB acknowledges that LLFB has not relied on any representations or warranties by the Town in entering this Agreement.

Section 15: Default. The following shall each constitute an “Event of Default” by LLFB:

- a. LLFB fails to make any required payment due under this Agreement.
- b. LLFB fails to perform any obligation or condition or to comply with any term or provision of this Agreement.
- c. LLFB files a petition for bankruptcy, reorganization or similar relief, or makes an assignment for the benefit of creditors.

Section 16: Termination. Upon the occurrence of an Event of Default by Tenant which continues for a period of 28 days after receiving written notice of the default from Landlord, Landlord has the right to terminate this Agreement and take possession of the Site. Landlord’s rights hereunder shall be in addition to any other right or remedy now or hereafter existing at law or equity.

Section 17: Surrender of the Site. LLFB shall return the Site to the Town upon termination or expiration of this Agreement in good condition and repair, ordinary wear and tear excepted. Within 28 days following the termination or expiration of this Agreement, LLFB will remove all equipment, materials, fixtures and other personal property belonging to LLFB from the Site. Any property left on the Site after 28 days following the termination of this Agreement will be deemed to have been abandoned by LLFB and may be retained by the Town.

Section 18: Condemnation. In the event that all or a material portion of the Site necessary for LLFB’s Use of the Site is taken for any public or quasi-public use under any governmental law, ordinance or regulation or by the right of eminent domain, this Agreement shall terminate on the date of such taking. In the event such taking is less than a material portion of the Site, this Agreement shall remain in full force and effect.

Section 19: Assignment and Subletting. LLFB will not assign this Agreement as to all of or any portion or the Site or make or permit any total or partial sublease or other transfer of all of or any portion of the Site without the Town's written consent.

Section 20: Notices. All notices given under this Agreement must be in writing. A notice is effective upon receipt and shall be delivered in person, sent by overnight courier service or sent via certified or registered mail, addressed to the Town or LLFB at the then current address or to another address that either Party may designate upon reasonable notice to the other Party.

Section 21: No Waiver. No Party shall be deemed to have waived any provision of this Agreement or the exercise of any rights held under this Agreement unless such waiver is made expressly in writing.

Section 22: Severability. If any provision of the Agreement is held to be invalid, illegal, or unenforceable in whole or in part, the remaining provisions shall not be affected and shall continue to be valid, legal, and enforceable as though the invalid or unenforceable parts had not been included in this Agreement.

Section 23: Governing Law and Disputes. The terms of this Agreement shall be governed exclusively by the laws of the State of North Carolina, without regards to its conflicts of laws rules. Any dispute arising from this Agreement shall be resolved in the courts of Rutherford County.

Section 24: Attorney's Fees. If either Party brings legal action to enforce its rights under this Agreement, the prevailing party will be entitled to recover from the other Party its expenses (including reasonable attorneys' fees) incurred in connection with the action and any appeal.

Section 25: Amendment. This Agreement may not be modified except in writing signed and acknowledged by both Parties.

Section 26: Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together, shall constitute one and the same document.

Section 27: Headings. The section heading herein are for reference purposes only and shall not otherwise affect the meaning, construction, or interpretation of any provision in this Agreement.

Section 28: Entire Agreement. This Agreement constitutes the entire understanding between the Parties and supersedes and cancels all prior agreements of the Parties, whether oral or written, with respect to the Site.

IN WITNESS WHEREOF the Parties have duly affixed their signatures under hand and seal on the date hereinabove written.

(SIGNATURES ON NEXT PAGE)

THE TOWN OF LAKE LURE

Carol Pritchett, Mayor

ATTEST:

Olivia Stewman, Clerk

NORTH CAROLINA
RUTHERFORD COUNTY

I, _____, a Notary Public in and for said County and State, do hereby certify that Carol Pritchett, Mayor of the Town of Lake Lure, and Olivia Stewman, Town Clerk for the Town of Lake Lure, personally came before me this day and being duly sworn says each for himself that he/she knows the corporate seal of the Town of Lake Lure and that the seal affixed to the foregoing instrument is the corporate seal of the Town of Lake Lure, that Carol Pritchett, Mayor and Olivia Stewman, Town Clerk subscribed their names thereto; that the corporate seal for the Town of Lake Lure was affixed thereto, all by virtue of a resolution or other official action of the Board of Commissioners, and that said instrument is the act and deed of the Town of lake Lure.

IN WITNESS WHEREOF, I have set my hand and notarial seal this the ____ day of _____ 2023.

Notary Public (SEAL)

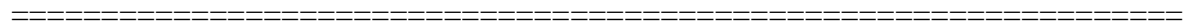
Print Name of Notary

My Commission Expires: _____

LAKE LURE FLOWERING BRIDGE, INC.

_____ (seal) Title: _____.

Attest: _____
Secretary



(NOTARY ON NEXT PAGE)

State of North Carolina
County of Rutherford

I, _____, a Notary Public of Rutherford County, North Carolina, do hereby certify that _____ (name of corporate officer) personally came before me this day and acknowledged that he/she is _____(title of corporate officer) of _____, a corporation, and that he/she, as _____ (title of officer), being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official seal this _____ day of _____, 2023.

Notary Public

(Official Seal)

My commission expires: _____

=====

**LAKE LURE TOWN COUNCIL
AGENDA ITEM REQUEST FORM
Meeting Date: March 22, 2023**

SUBJECT: Fire/Emergency Services Department Personnel Discussion

AGENDA INFORMATION:

Item Number: V
Department: Fire/Emergency Services
Contact: Dustin Waycaster, Fire Chief
Presenter: Dustin Waycaster, Fire Chief

BRIEF SUMMARY:

Fire Chief Dustin Waycaster has expressed the need to discuss the Fire/Emergency Services Department Personnel needs. This requested discussion stems from concerns regarding coverage due to recent paramedic losses in Rutherford County. Discussion will be for purposes of information for Council, overall issues and discussing how the Town of Lake Lure will address these issues moving forward which could involve the addition of a Lake Lure Fire position.

**LAKE LURE TOWN COUNCIL
AGENDA ITEM REQUEST FORM
Meeting Date: March 22, 2023**

SUBJECT: Discuss Rutherford County Tourism Development Authority Lease

AGENDA INFORMATION:

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

BRIEF SUMMARY:

Council will continue to discuss the Rutherford County Tourism Development Authority lease for the Community Center (2932 Memorial Highway). Town staff is proposing a 1 year term with the option to renew for 9 additional terms of 1 year. The Town Clerk has sent notice that the Town will consider approving the lease agreement at the April 11th regular Council meeting.

ATTACHMENTS:

Draft TDA Lease

STATE OF NORTH CAROLINA
COUNTY OF RUTHERFORD

LEASE AND AGREEMENT
With
**The Rutherford County Tourism Development
Authority**

THIS LEASE AGREEMENT (the "Lease"), made and entered into as of the ____ day of _____, 2023 by and between the TOWN OF LAKE LURE, a municipal corporation, party of the first part, "Landlord", (hereinafter also referred to as the "Town"); and the RUTHERFORD COUNTY TOURISM DEVELOPMENT AUTHORITY, party of the second party, "Tenant" (hereinafter also referred to as the "TDA").

WITNESSETH

Whereas, the Town is a municipal corporation established under the laws of the State of North Carolina; and TDA is a political subdivision of the State of North Carolina charged with developing tourism throughout Rutherford County, including in and for the Town of Lake Lure; and

Whereas, TDA, in fulfilling its mission to promote the growth of tourism for and in Rutherford County in accordance with N.C. Session Law 2011-115, desires to operate a facility, located in the Town, for the express purposes of: providing a location for TDA to **fulfill** this mission and for such other related purposes as TDA feels is in the best interest of fulfilling this mission (the "Visitor Center"); and

Whereas, the Town agrees with this goal of developing tourism and desires to lease space to TDA for the purpose of TDA operating such a Visitor Center; and

NOW, THEREFORE, for and in consideration of their mutual covenants, the Town hereby leases to the TDA, and the TDA hereby leases from the Town, the building commonly known as the Community Center, situated at 2932 Memorial Highway, Lake Lure, NC 28746 (hereinafter the "Premises"), for the express purpose of operating a Visitor Center and an office for TDA, upon the terms, conditions and covenants as set forth herein:

1. Term of Lease. This Lease is for a term commencing on _____, 2023, and ending on _____, 2024, unless sooner terminated as hereinafter provided (the "Term"). If at any time the Visitor Center remains closed and unavailable to the public for a period of thirty (30) consecutive days, the same shall be considered a breach of this agreement and the Town shall send written notice to the TDA, as provided hereinbelow, of the breach, upon receipt after which the TDA shall have thirty (30) days to cure the breach by opening the Visitor Center on the Premises (the "Cure Period"). If the TDA fails to open the Visitor Center during the Cure Period, then this Lease shall terminate ten (10) days after the Cure Period.

2. Rent. Beginning on the first day of the Term and then on the first day of July of each year subsequent, the TDA will be obligated to pay to the Town annual rent in the amount of \$1.00 (one dollar and zero cents). In the event TDA fails to pay the rent as provided herein, the Town shall send Notice of the breach to TDA as provided hereinbelow, and TDA shall have thirty (30) days to pay said rent. Should TDA continue to be in breach of this provision after the thirty (30) days have expired, then this Lease shall be considered terminated, and the Town may send notice to vacate the Premises to TDA at any time in its sole and complete discretion.

3. Option to Renew. The Tenant and Town shall have the option to renew this lease agreement for nine (9) additional terms of one (1) year (the "Option"), for a total potential term of this Lease of ten (10) years. The Option will be deemed exercised automatically unless either party delivers written notice as provided hereinbelow to the other party of its decision not to exercise or agree to the Option. This decision not to exercise or agree to the Option shall be sent to the other party no later than one

hundred eighty (180) days prior to the termination of the original Term.. Either party, so long as that party is not in breach of this Lease, has the right to elect to not exercise the Option as provided herein, with or without cause.

4. Operation of the Visitor Center

(a) TDA agrees to operate the Visitor Center in accordance with the Visitor Center Mission and Vision Statements, which are as follows:

Mission & Purpose

The mission of the Hickory Nut Gorge Visitor Center is to accommodate the needs of our visitors in cooperation with surrounding communities by:

- *promoting the area*
- *showcasing our history and heritage*
- *highlighting our family-oriented destinations*
- *sharing our welcoming spirit*

Vision Statement

The Hickory Nut Gorge Visitor Center is an attractive and engaging destination that provides information regarding attractions, accommodations, restaurants and other things to see and do. This fosters overnight stays, encourages return visits and invites potential residents. As a result, social, cultural and economic vitality is enhanced not only in the Hickory Nut Gorge, but also throughout Rutherford County and the region.

(b) Information provided in the Visitor Center on tourist amenities like attractions, lodging and dining, will not be limited solely to Rutherford County businesses.

(c) TDA will utilize their established branding and signage, which is subject to modification by the TDA. Currently, this includes "*Lake Lure & The Blue Ridge Foothills*" and the "*Front Porch of the Blue Ridge*" campaign. In signs and references to the Visitor Center, the TDA will include the reference "*Serving the Hickory Nut Gorge.*"

(d) TDA shall maintain a regular forum for area tourism businesses to provide feedback and recommendations on Visitor Center services through the TDA's Visitor Information Network (VIN) subcommittee. TDA shall appoint two (2) members of the Hickory Nut Gorge Chamber of Commerce to the VIN subcommittee.

5. Utilities

(a) TDA shall pay all of the monthly charges for electricity attributable to the premises.

(b) The Town shall provide water and sewer utility service at no charge to TDA.

(c) The Town shall make available a fiber optic broadband internet connection for use at no cost by TDA. TDA shall be responsible for the purchase of any equipment necessary for this connection.

(d) The Town shall make available voice-over-IP telephone services for use at no cost by TDA. TDA shall be responsible for the purchase of phones and any necessary networking equipment.

(e) The Town shall, from time to time, upon request from TDA, join in the granting of such utility easements as may be reasonably necessary to service TDA's requirements on the Premises.

6. Repairs, Maintenance and Cleaning.

(a) TDA shall be responsible for the maintenance of the interior of the building on the Premises and shall keep said interior in good condition and ordinary repair as when received, ordinary wear and tear excepted. Said interior maintenance shall include regular custodial servicing and cleaning and pest control.

(b) TDA shall be responsible for all repairs to permanent leasehold improvements, including, but not limited to, structural, mechanical, HVAC, exterior including doors, foundation repairs and repairs to the roof, as well as repairs as required because of water entering the Premises from the roof of other parts of the building or from other causes not under the control of the Town.

(c) TDA shall each make all necessary repairs and replacements of the portions of the Premises which they are required to maintain and repair as aforesaid, and all repairs and replacements shall be diligently commenced and completed.

(d) The Town shall be responsible for snow removal and parking lot maintenance.

7. Insurance.

(a) TDA shall carry throughout the Term, at its own expense, an Owners, Landlords, and Tenants General Public Liability Policy covering both the Town and the TDA with minimum limits of \$1,000,000 for injury to or death of any number of persons in one occurrence, and property damage liability insurance in the amount of \$1,000,000. Certificate evidencing such as insurance shall be furnished to the Town, and TDA will deliver to the Town certificates of renewal of such policy not less than ten (10) days in advance of the expirations thereof; such policy shall not be subject to cancellation without at least ten (10) days prior written notice to the Town.

The TDA shall cooperate and carry throughout the Term, a Policy for flood insurance covering both the Town and the TDA with minimum limits sufficient to cover the cost of replacing the Visitor Center in the event of a flood. TDA will obtain the policy on behalf of the Town and TDA. Certificate evidencing such insurance shall be furnished to the Town, and TDA will deliver to the Town certificates of renewal of such policy not less than ten (10) days in advance of the expirations thereof, at which time Town shall reimburse TDA for one-half (1/2) of the cost of the said policy; such policy shall not be subject to cancellation without at least ten (10) days prior written notice to the Town.

(b) TDA shall maintain and keep in force all employers' compensation insurance required under the laws of the State of North Carolina, and such other insurance as may be necessary to protect the Town against any other liability to person or property arising hereunder by operation of law, whether such law be now in force or adopted subsequent to the execution thereof.

(c) Should the TDA fail to keep in effect and pay for such insurance as it is in this section required to do, the Town may do so, in which event the Town may send receipt of the insurance premiums paid by the Town to TDA at the address shown under the Notice section herein, and such premiums paid shall become immediately due and payable by TDA to the Town. Failure of TDA to reimburse such insurance premiums within thirty (30) days shall constitute a breach of this Lease.

(d) TDA shall secure appropriate fire, theft and casualty insurance coverage on any and all of its contents situated upon said Premises and any and all improvements it makes to said Premises.

(e) The Town shall maintain and carry, throughout the Term at its own expense, hazard insurance on the Premises insuring against loss or damage by fire, earthquake, vandalism, and other perils in the amount of the replacement value of the Premises and any leasehold improvements thereto. The TDA shall be named as an additional insured as to any leasehold improvements made by the TDA, if any, pursuant to the terms of this Lease Agreement.

8. Fixtures

TDA shall have the right to remove Town-authorized improvements that it makes and fixtures that it adds to the Premises at such time as the Lease, or any renewal or extension thereof, concludes or is terminated; provided, however, that:

(a) The Premises are left in as good a state as when received, reasonable wear and tear and damage by fire or other casualty excepted;

(b) No portion of the Community Center shall be demolished or removed by TDA without the prior, express written consent of the Town; and

(c) Such removal shall be performed in a satisfactory manner and not weaken or impair the structural strength of the Community Center or any portion of the Premises.

Failure to remove such improvements or fixtures on or before the final day TDA holds possession of the Premises shall not be deemed a holding over under the terms of this Lease but shall be deemed an abandonment of the improvements or fixtures, and TDA shall not then incur any costs for the removal thereof. Nothing in this paragraph 8 shall permit TDA to seek or compel reimbursement from the Town for the Project but is intended by the parties hereto to permit TDA to remove and take its equipment and personal property whether or not attached to the Visitor Center.

9. Assignment. TDA shall not assign or in any manner transfer this Lease or any estate, interest or benefit therein or sublet the Premises or any part thereof or permit

the use of the same or any part thereof not anyone without the prior written consent of the Town.

10. Damage to Premises

(a) If the improvements on the Premises shall be damaged or destroyed by fire or by any other hazard insured by hazard insurance, then the party responsible for such damage through insurance coverage as set forth in paragraph 7 above shall work with such insurance company to effect such repairs or restore said improvements to substantially the same condition which existed before such damage or destruction.

(b) Since the annual rent is \$1.00, in the event that any damage from the causes aforesaid shall render the Premises totally or partially unusable for TDA's purposes under this Lease shall not be abated in proportion to the loss of effective use of the Premises.

If the destruction or damage amounts to more than seventy-five percent (75%) of the insurable value of the Premises, then either party may terminate this Lease by written notice to the other party within thirty (30) days after the date of such occurrence. Provided, however, that this Lease shall not thereby terminate if the damage shall have resulted from a hazard included in standard fire and extended coverage insurance and if TDA shall, within said thirty (30) day period, or within ten (10) days after notice of termination by the Town, send the Town written notice of its election to continue this Lease commencing four (4) weeks after the date that restoration by the Town shall be completed and available to the TDA for the conduct of its business. In the event of any termination under this paragraph (c), this Lease shall terminate as of the date of the occurrence, and the rent and all other payments owing or already paid by the TDA shall be adjusted as of said date.11. Indemnification of Town.

TDA during the term hereof shall indemnify the Town against all claims and demands, whether for injuries to persons, loss of life, or damage to property occurring with the Premises and arising out of the use and occupancy of the Premises by TDA, excepting, however, such claims and demands caused by acts or omissions of the

Town. Nothing contained in this section

shall, however, detract from TDA's rights to protection under the liability insurance policy to be paid for by TDA as specified in paragraph 7 hereof.

12. Default.

If at any time during the term or extensions of this Lease there shall be a default within the provisions of this Agreement, except as stated in paragraph 1 and if TDA fails to cure such default within the Cure Period, then the Town may remedy or attempt to remedy any such default or other noncompliance and expend any sums necessary therefore at the cost and expense of TDA, and the sums so expected shall be payable to the Town on demand with lawful interest thereon and may be added by the Town to any rents or other sums due or to become due hereunder. On termination, the Town may recover from TDA all damages proximately resulting from the breach, including the worth of the balance of the Lease over the reasonable rental value for the Premises for the remainder of the Lease term, which such shall be immediately due the Town from TDA.

13. Notice.

It is agreed that all notices regarding this Lease shall be sent by certified or registered mail to:

If to Town:

The Town of Lake

Lure

If to TDA:

Rutherford County Tourism Dev. Auth.

Either party may designate by written notice to the other party a change in address to which notices may be directed to said party.

14. Other Matters.

(a) The failure by the Town to insist upon the strict performance of any agreement, term, or condition of this Lease or to exercise any right or remedy consequent upon an unremedied breach thereof, and the acceptance of full or partial rent during the continuance of any unremedied breach, shall not constitute a waiver of any such unremedied breach or the performance of such agreement, term, or condition of this Lease to be performed or complied with by TDA, and no unremedied breach thereof shall be deemed waived, altered, or modified except by written instrument executed by the Town. The waiver of any breach shall not affect or alter this Lease, but each and every agreement, term or condition of this Lease shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

(b) Each right and remedy of the Town provided for in this Lease shall be cumulative and shall be in addition to every other right or remedy provided for in this Lease or now or hereafter existing at law or in equity, by statute or otherwise and the exercise or beginning of the exercise by the Town of any one or more of the rights or remedies provided for in this Lease as now or hereafter existing at law or in equity, by statute or otherwise, shall be precluded the simultaneous or later exercise by the Town of any or all other rights or remedies for any then existing breach which has not then been remedied or in the course of being remedied provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.

(c) In the event of default, the Town shall use its best efforts to mitigate damages.

(d) All parties hereto agree that in no event shall either the Town or the TDA be liable or responsible to each other, or to other persons, due to any stoppage or delay in operation of the Visitor Center or in any work contemplated by the Project, where such

stoppages or delays result from acts of God, fire, war, legal, or equitable proceeding, pandemic, or any other cause which is outside the control of either party hereto.

(e) It is agreed by the parties hereto that visitors and TDA volunteers and employees to the Visitor Center shall have the right to park in parking lots owned by the Town. The Town will be solely responsible for maintenance of any said parking lots.

14. No Waiver of Immunity. No portion of this Lease shall be deemed to constitute a waiver of any immunities which the Town or the TDA or their officers or employees may possess, nor shall any portion of this Lease be deemed to have created a duty of care on the part of either party to any persons not a party to this Lease.

15. Non-Appropriation.

No portion of this Agreement shall be deemed to create an obligation on the part of TDA or Town to expend funds not otherwise appropriated in each succeeding year.

16. Entire Agreement.

This Lease sets forth all the promises, agreements, conditions, and undertakings between the Town and TDA relative to the Premises, and there are not promises, agreements, conditions, undertakings, warranties or representations, oral or written expressed or implied, between them varying the terms of this Lease.

17. Severability.

If any section, subsection, paragraph, sentence, clause, or phrase of this Agreement is for any reason held or decided to be invalid or unconstitutional, such a decision shall not affect the validity of the remaining portions. The parties hereto declare that they would have entered into this Agreement and each and every section, subsection, paragraph, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, paragraphs, sentences, clauses, or phrases might be declared to be unconstitutional or invalid.

18. Amendments and Termination.

This Lease shall be modified, altered, amended, or changed, only by written

instrument executed by all the parties hereto. The parties hereto may agree to terminate this Lease at any time by written instrument executed by all the parties hereto.

19. Obligations and Successors.

The Town and TDA agree that all the provisions hereof are to be construed as covenants and agreements as though the words importing such covenants and agreements were used in each separate paragraph hereof, and that all of the provisions hereof shall bind and inure to the benefit of the parties hereto, and their respective heirs, legal representatives, successors, and assigns.

20. Expiration of Lease.

Upon termination or expiration of this Lease or the Option period, as appropriate, or any extension or renewal thereof, TDA shall deliver to the Town physical possession of the Premises in as good condition as the Premises are at the commencement of the Term, ordinary wear and tear and damage by fire or other casualty excepted. The Town acknowledges it is contemplated by the Lease that alterations may be made to the Premises as set forth herein.

21. Governing Law.

This contract is made under and shall be governed by and construed in accordance with the laws of the State of North Carolina. TDA shall comply with all applicable federal, State, and local laws, statutes, ordinances and regulations including, but not limited to, the Omnibus Transportation Act of 1991 and its implementing regulations.

SIGNATURE PAGE FOLLOWS:

IN WITNESS WHEREOF, said parties have hereunto executed this Agreement and Lease, in duplicate, the day and year first above written.

TOWN OF LAKE LURE

By: _____
Carol Pritchett, Mayor

ATTEST:

Olivia Stewman
Town Clerk

APPROVED AS TO FORM:

William C. Morgan, Jr.
Town Attorney

RUTHERFORD COUNTY TOURISM
DEVELOPMENT AUTHORITY

By: _____

By: _____

**LAKE LURE TOWN COUNCIL
AGENDA ITEM REQUEST FORM
Meeting Date: March 22, 2023**

SUBJECT: Chimney Rock Village Agreement to Operate Water System

AGENDA INFORMATION:

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

BRIEF SUMMARY:

Town staff has amended the draft agreement to operate water system with Chimney Rock Village based on past Council discussions. Chimney Rock Village has been provided with an updated draft. The Town Manager has been in contact Chimney Rock Village. There is a mutual opinion that an extension of the current agreement will be needed in order to address the needs of both municipalities moving forward.

ATTACHMENTS:

Updated Draft of the Chimney Rock Village Agreement to Operate Water System

STATE OF NORTH CAROLINA
COUNTY OF RUTHERFORD

AGREEMENT TO OPERATE WATER SYSTEM

THIS CONTRACT is made and entered into this ____ day of _____, 2023, by and between the Town of Lake Lure, a North Carolina Municipal Corporation hereinafter referred to as "Lake Lure" and the Chimney Rock Village, a North Carolina Corporation hereinafter referred to as "Chimney Rock".

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 currently owns and operates a water treatment and distribution system, and is engaged in the enterprise of managing, operating, maintaining said system and selling potable water to the public 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 selling potable water to the public 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, Chimney Rock has tended written notice as required by the prior agreement to Lake Lure of its intent to renew the prior agreement subject to the modifications contained herein; and

WHEREAS, Lake Lure has notified Chimney Rock in writing as required by the prior agreement of its decision to renew the prior agreement subject to the modifications contained herein; and

WHEREAS, Lake Lure and Chimney Rock each have facilities and services that are mutually beneficial and have agreed that continued cooperation in the management and operation of both water systems would serve the best interest of both municipalities; and

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

NOW THEREFORE, in consideration of the mutual covenants, conditions and terms contained herein, the parties hereto, intending to be legally bound hereby, agree as follows:

1. Lake Lure and Chimney Rock mutually agree that this agreement shall become effective on April 15, 2023 and it shall continue in effect for a period of 5 years from its effective date (April 15, 2028), or extended by the mutual, written consent of both parties, or until superseded by an alternative agreement.
2. Lake Lure and Chimney Rock have the option to renew this lease agreement for one (1) additional term of five (5) years (the "Option"). The Option will be deemed exercised automatically unless either party delivers written notice as provided herein below to the other party of its decision not to exercise or agree to the Option. This decision not to exercise or agree to the Option shall be sent to the other party no later than one hundred eighty (180) days prior to the termination of the original Term. Either party, so long as that party is not in breach of this Lease, has the right to elect to not exercise the Option as provided herein, with or without cause.
3. Lake Lure agrees to assume the responsibility for managing and operating Chimney Rock's water system and program throughout the term of this agreement and that such responsibilities shall, at a minimum, include:
 - a. Overseeing and managing the operation of the water system; and
 - b. Providing the supervisory and operational personnel necessary to adequately manage, operate and maintain said water system; and
 - c. Reading the meters for all metered customers on the water system; and
 - d. Billing all customers for water services rendered and providing other relevant customer services, on a bi-monthly schedule (every other month), or may follow the Town's regular billing cycle if more frequent, utilizing Chimney Rock's adopted water rates and charges; and
 - e. Providing the accounting services necessary to account for all funds that pass through Chimney Rock's water program, in accordance with applicable state laws and regulations; and
 - f. Insuring compliance with applicable state environmental laws and regulations, so long as such compliance is within the control of Lake Lure; and
 - g. Monitoring the water system facilities to insure their proper operation and protection; and
 - h. Repairing and maintaining the water system and related facilities, as such repairs and maintenance are warranted, subject to the exclusion listed in

paragraph 5 below.

4. Lake Lure further agrees to manage, operate and maintain the Chimney Rock water system and program to the same standard that the Town manages, operates and maintains its own water system and program.
5. Lake Lure's responsibilities under this agreement does not extend to paying the costs associated with capital improvements or major repairs to the system. The Town of Lake Lure's assigned management (Town Manager or assigned/appointed contact or Department Head) will notify the Village's Mayor and or Administration of Chimney Rock Village for approvals of any repairs that are estimated to equal to or exceed \$1,000 or the purchase of any equipment which cost is estimated to equal to or exceed \$500. The Village will within a reasonable time, per issue and/or situation, notify the Town of approvals or any plans of action to address repairs or equipment purchases, thus allowing the Village time to consult with the Village's engineer of record or decide to have . "Major repairs" shall be defined as those repairs which cannot be made with hand tools or equipment normally operated by the Town of Lake Lure's maintenance staff or which require the hiring of outside assistance. Repairs conducted by the Town shall be undertaken by the Town force account labor and/or by a contractor performing such repairs on behalf of the Town.
6. Lake Lure agrees that the responsibility for managing, operating and maintaining the Chimney Rock water system and program shall rest with its Town Manager and the Manager shall be accountable to Chimney Rock for timely and accurate communication, information and reporting for all important policy, operational, and financial matters relating to Chimney Rock's water system and program.
7. Lake Lure shall immediately notify Chimney Rock upon becoming aware of any activity, problem or circumstance that might present a danger to the health, safety and welfare of Chimney Rock water users. Further, Lake Lure shall take appropriate action to remedy such activity, problem or circumstance and to avoid or minimize disruptions in service. Chimney Rock shall immediately take those steps necessary to alleviate such activity, problem or circumstance where such measures are beyond the control of Lake Lure.
8. 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.

9. Monetary Compensation. Chimney Rock shall pay (To Be Determined) annually, beginning with the effective date of this contract, to Lake Lure for managing, operating and maintaining the Village's water system and program, plus parts, supplies, costs for laboratory tests and similar expenses. Said compensation shall be paid in equal monthly payments, which shall be deducted by Lake Lure from the proceeds it collects from the sale of water in Chimney Rock. During any annual fiscal cycle during which the proceeds from the sale of water from Chimney Rock's water system is insufficient to compensate Lake Lure in accordance with the terms provided for herein, Lake Lure shall submit a written notification to Chimney Rock accounting for the actual proceeds collected and requesting that Chimney Rock remit the balance owed to Lake Lure within 30 days of the date of the notification.
10. The compensation component provided for in paragraph 9 shall be reviewed at the end of the initial 5 year term of this agreement to maintain equity between the value of Lake Lure's annual cost for managing, operating and maintaining Chimney Rock Village's water system, except that Lake Lure and Chimney Rock each reserves the right to call for an interim review of this compensation formula in the event that its cost of managing, operating and maintaining the water system has changed substantially for any reason.
11. Chimney Rock agrees to create policies that shall provide Lake Lure with guidance concerning Lake Lure's fulfillment of its duties to manage, operate, and maintain as required under this agreement. If Lake Lure has questions concerning its duties under this agreement that is not answered in the policies, then Chimney Rock will provide Lake Lure with timely guidance. The policies provided by Chimney Rock to Lake Lure shall be strictly followed and any breach of the policies shall be construed as a material breach of the contract. The policies may be called "Procedures and Guidelines" or another term that the parties reasonably understand to be the policies created by Chimney Rock for Lake Lure. Such policy guidance and timely decisions shall include water rates and charges that are adequate to generate sufficient revenues to offset all of the management, operation, and maintenance expenses for the water system and program.
12. Chimney Rock agrees to correct demonstrated deficiencies in the water system and make improvements that are necessary for such regulatory compliance.
13. Chimney Rock agrees that the Village and its water customers shall abide by all of the user policies and procedures adopted by Lake Lure for its water system, unless Chimney Rock specifically amends such policies and procedures for its users and provided that such amendments do not hinder Lake Lure's ability to comply with the provisions of this agreement.
14. Chimney Rock Village and the Town of Lake Lure agree that both municipalities and their respective water customers shall abide by and adhere to all policies,

restrictions and other ordinances that may be adopted by both governing bodies which impose water restrictions, water conservation requirements, moratoriums, and other such limitations on the use of water during times of emergency or drought conditions or during other emergency or critical situations, which for public health or financial reasons justify said policies, restrictions, and ordinances.

15. Chimney Rock agrees to tender at least a 180 day written notice to Lake Lure prior to the expiration of this agreement if it desires to renew said agreement.
16. The Town of Lake Lure agrees to notify Chimney Rock Village in writing of its decision to renew or not to renew this agreement on or before 90 days after having received notification of the Chimney Rock's desire to renew this.
17. Lake Lure and Chimney Rock shall maintain backflow protection at all points of connections between the two water systems to prevent the backflow of water into each water system. Chimney Rock's policies and ordinances pertaining to backflow protection shall be consistent with those policies and ordinances adopted for Lake Lure's water system.
18. Lake Lure and Chimney Rock both represent that no litigation is pending or threatened against either party which would impair their ability to perform their respective duties and obligations under the terms, covenants and provisions of this agreement.
19. The Parties 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 Lake Lure and Chimney Rock 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.
20. Default and Termination. This agreement may be terminated for cause, as set forth below, prior to its stated expiration date by Lake Lure or Chimney Rock in accordance with terms and conditions set forth herein. The rights of Lake Lure and Chimney Rock to terminate this agreement shall be strictly construed in accordance with the provisions contained herein. Upon the happening of any of the following events of default by either party, the aggrieved party shall have the right to terminate this agreement:
 - a. The failure of either party to perform or observe any of its material covenants, agreements, obligations and/or duties created by this agreement.

- b. The determination that any representation, warranty or covenant made by either party is false and/or misleading in any material respect.
 - c. The commencement of any bankruptcy, insolvency, liquidation and/or similar proceeding against either party, which materially and adversely affects its ability to perform its duties or obligations under this agreement.
 - d. The failure of The Town or Village to make any payments required to be made by it pursuant to the terms of this agreement within 90 days of receipt of notice or invoice from the other party.
 - e. Any action by Chimney Rock to divest itself of its water system or its related facilities so that it no longer controls the supply of potable water which is conveyed or sold to Lake Lure under the terms, covenants and conditions of this agreement.
 - f. Any action by Lake Lure to divest itself of its water system or its related facilities so that it no longer possesses the capacity to manage, operate and maintain Chimney Rock's water system, in accordance with the terms and conditions of this agreement.
 - g. Any order of a court of competent jurisdiction, of any federal or state law or regulation which would make this contract illegal, subject to the further provisions of paragraph 36 below if applicable.
21. Upon the happening of any event described in the preceding section, the aggrieved party shall provide written notice to the party committing the alleged violation setting forth in detail the alleged failure and/or deficiency. Thereafter, within 10 days of receipt of notice of the alleged default, the parties to this agreement shall meet to discuss the circumstances and attempt to reach a resolution. If either party fails to fully perform or comply with all of the conditions, provisions and covenants of this agreement, and if the nonperformance or failure shall continue for more than 30 days after written notice thereof by the other party, or if the nonperformance or failure cannot be reasonably remedied within the same 30 day period and the party which is in violation of the agreement has not proceeded with or commenced the remedy in good faith, within 15 days of the receipt of such notification, that party will be considered to be in default of this agreement. If the alleged default continues or the parties disagree as to whether the matter has been resolved, the aggrieved party may send written notice to the party committing the alleged default declaring an impasse and proceed to enforce all rights and remedies available to it either in equity or at law.
22. Each of the parties to this agreement shall be entitled to pursue a claim against the other for any non-monetary remedies available and any additional remedies available.

damages suffered as a result of any default by the other party, in addition to attorney's fees. Notwithstanding anything in the agreement to the contrary, neither party shall be responsible to the other for any indirect, third-party or consequential damages arising from a breach of this agreement.

23. To the extent allowed by, Lake Lure shall indemnify, defend and hold harmless Chimney Rock, its elected and appointed officers, and its duly authorized agents, servants and employees from any and all costs, expenses or liabilities (including costs, expenses or liabilities to third parties and attorney's fees) which are caused by or arise from Lake Lure's breach of this agreement or the negligent or willful acts of omission of Lake Lure or its agents, servants, employees, or subcontractors provided such cost, expenses or liabilities do not arise as a result of the negligent or willful acts or omissions of Chimney Rock.
24. To the extent allowed by law, Chimney Rock shall indemnify, defend and hold harmless Lake Lure, its elected and appointed officers, and its duly authorized agents, servants and employees from any and all costs, expenses or liabilities (including costs, expenses or liabilities to third parties and attorney's fees) which are caused by or arise from Chimney Rock's breach of this agreement or the negligent or willful acts of omissions of Chimney Rock or its agents, servants, employees or subcontractors provided such cost, expenses or liabilities do not arise as a result of the negligent or willful acts or omissions of Lake Lure.
25. NOTICES: For the purposes of this agreement, all notices required shall be deemed to have been properly served and shall be only served when posted by Certified United States Mail, Postage Prepaid, Return Receipt Requested, addressed to the Party to whom directed at the address herein set forth or at such other address as may from time to time be designated in writing by either party:

To Lake Lure:

Town of Lake Lure
Post Office Box 255
Lake Lure, NC 28746-0255
Facsimile Number: (828) 625-8371
Attention: Town Manager

To Chimney Rock Village:

Chimney Rock Village
Post Office Box 300
Chimney Rock, NC 28720-0300
Facsimile Number: (828) 625-4456
Attention: Mayor and/or Village Clerk

26. This agreement embodies the entire agreement between the parties in connection with this transaction, and there are no oral or parole agreements, representations or inducements existing between the parties relating to this transaction, which are not expressly set forth herein. This agreement may not be modified except by a written agreement signed by all parties to this agreement. Neither party shall be entitled to sell, convey or otherwise alienate the rights and obligations created herein without the prior written permission of the other party to this agreement.
27. Nothing contained herein shall be construed to place the parties in the relationship of partners or joint venturers, and neither party shall have the power to obligate or bind the other party to third parties in any manner whatsoever.

28. No written waiver by any party to this agreement at any time of breach of any other provision of this agreement shall be deemed a waiver of a breach of any provision herein or a consent to any subsequent breach of the same or any other provision.
29. The captions and article numbers appearing in this agreement are inserted only as a matter of convenience and do not define, limit, construe or describe the scope of such paragraphs or articles of this agreement or in any way affect this agreement.
30. This agreement shall be governed by and interpreted in accordance with the laws of the State of North Carolina.
31. Time shall be of the essence in this agreement and each and every term and condition thereof.
32. Words of any gender used in this agreement shall be held to include any other gender, and words in the singular number shall be held to include the plural, when the sense requires.
33. If any provision under this agreement or its application to any person or circumstance is held invalid by any court of competent jurisdiction, such invalidity does not affect any other provision of this agreement or its application that can be given effect without the invalid provision or application.
34. In the event of litigation between Lake Lure and Chimney Rock as to the terms, performance, or any other aspect of this agreement, this agreement shall remain in force and effect during such litigation.
35. This agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, and it shall not be necessary in making proof of this agreement to produce or account for more than one such fully executed counterpart.
36. Except as provided herein, the rights and remedies provided for in this agreement are cumulative and are not exclusive of any rights or remedies that any party may otherwise have at law or in equity.

IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first above written, after being approved in open meeting by the respective governing board of each municipality.

TOWN OF LAKE LURE, NORTH CAROLINA

By: _____
Mayor

(SEAL)
Attest

By: _____
Town Clerk

CHIMNEY ROCK VILLAGE, NORTH CAROLINA

By: _____
Mayor

(SEAL)
Attest

By: _____
Village Clerk

This agreement has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

By: _____
Steve Ford, Finance Officer
Officer Town of Lake Lure

By: _____
Stephen G. Duncan, Finance
Chimney Rock Village

**LAKE LURE TOWN COUNCIL
AGENDA ITEM REQUEST FORM
Meeting Date: March 22, 2023**

SUBJECT: Review Draft Capital Ordinance for Drain Valve Installation

AGENDA INFORMATION:

Item Number: VIII
Department: Finance/Dam
Contact: Hank Perkins, Town Manager
Presenter: Hank Perkins, Town Manager

BRIEF SUMMARY:

The Town is set to approve a bid for the drain valve installation project during the April 11th regular meeting. At that time, Council should also adopt a capital ordinance for the project. The bid opening for the project will take place on March 28th at 10:00 a.m. At that time, the costs detailed in the ordinance can be determined. Town staff has provided a draft capital ordinance with the exclusion of the prices that will be evident following bid opening.

ATTACHMENTS:

Draft Capital Ordinance for Drain Valve Installation

ORDINANCE NO.

CAPITAL PROJECT ORDINANCE BY THE TOWN OF LAKE LURE TOWN COUNCIL FOR THE DRAIN VALVE INSTALLATION

WHEREAS, The installation of reservoir drain valves will allow for the Town of Lake Lure to drain the lake 20 ft. in order to proceed with the completion of major infrastructure projects; and

WHEREAS, The Town of Lake Lure has procured a 72” knife gate valve and a 60” Jet Flow Valve; and

WHEREAS, The Town of Lake Lure will have reservoir drain valves installed in the summer of 2023; and

WHEREAS, Town staff has determined that a capital project ordinance for the installment of the drain valves is instrumental in ensuring that a responsible and appropriate budget is being implemented for the project.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LAKE LURE, NORTH CAROLINA, MEETING IN REGULAR SESSION AND WITH A MAJORITY OF TOWN COUNCIL VOTING IN THE AFFIRMATIVE THAT PURSUANT TO SECTION 13.2 OF CHAPTER 159 OF THE GENERAL STATUTES OF NORTH CAROLINA, CAPITAL PROJECT ORDINANCE NO. IS HEREBY ADOPTED AS FOLLOWS:

Lake Lure Reservoir Drain Valve Installation

SECTION ONE. The project includes furnishing all materials, labor, tools, and equipment necessary to construct a new reservoir drain system at the base of Bay 5 of Lake Lure Dam, a high hazard, concrete multiple arch-buttress dam. The knife gate guard valve and jet flow discharge valve will be furnished by the Owner to the Contractor. Some underwater construction will be required to complete the Work. Establishing site access across the Broad River is included as part of the Work.

SECTION TWO. The officers of the Town of Lake Lure are hereby directed to proceed with the capital project within the terms of the council’s resolution, loan documents, grants and the budget contained herein.

SECTION THREE. The following amounts are appropriated for the project:

Item	?????
Item	?????
Item	?????
Total	<u>????????</u>

SECTION FOUR. The following revenues are available for this project:

Revenue	?????
Revenue	?????
Revenue	?????

Total ???????

SECTION FIVE. The finance officer is hereby directed to maintain within the Capital Project Fund, sufficient detailed accounting records related to the project.

SECTION SIX. The finance officer is directed to report, on a quarterly basis, on the financial status of each project element in section 3.

SECTION SEVEN. The budget officer is directed to include a detailed analysis of past and future costs and revenues on this capital project in every budget submission made to this board.

SECTION EIGHT. Copies of this capital project ordinance shall be furnished to the Clerk to Town Council, and to the Budget Officer and the Finance Officer for direction in carrying out this project.

SECTION NINE. This Ordinance shall take effect upon adoption.

READ, APPROVED, AND ADOPTED this ____ day of _____, 2023.

ATTEST:

Olivia Stewman, Town Clerk
Town Clerk

Mayor Carol C. Pritchett
Mayor

Approve as to content & form:

William C. Morgan, Jr.
Town Attorney

**LAKE LURE TOWN COUNCIL
AGENDA ITEM REQUEST FORM
Meeting Date: March 22, 2023**

SUBJECT: Public Works Building and Equipment Laydown Area

AGENDA INFORMATION:

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

BRIEF SUMMARY:

The Town has been working towards the construction of a Public Services building and an equipment laydown area for ongoing infrastructure projects. Town staff will update Council on the building and laydown area. Town staff requests Council input in regard to the timing and options of the two projects.

**LAKE LURE TOWN COUNCIL
AGENDA ITEM REQUEST FORM
Meeting Date: March 22, 2023**

SUBJECT: Human Resources / Customer Services Specialist Job Description

AGENDA INFORMATION:

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

BRIEF SUMMARY:

At the time that Jennifer Duncan was hired as the Human Resources/Customer Services Specialist, there was not a job description created to appropriately define all of the duties of the position. Rather, there were two separate descriptions which are now outdated. Town staff is working towards creating an accurate description of the Human Resources/Customer Services Specialist Job Description, which will require Council's approval.

ATTACHMENTS:

Human Resources Job Description; Customer Services Job Description; Draft Human Resources/Customer Services Specialist Description

Human Resources Specialist

Primary Reason Why Classification Exists

To perform a variety of administrative, technical, and analytical work involved in the administration of the Town's Human Resources functions including payroll, recruitment and selection, employee benefits administration, employee relations, and records management.

Distinguishing Features of the Class

An employee in this class is responsible for administering the Town's payroll and Human Resource programs. Emphasis of the work is on developing and following procedures and work processes to ensure accuracy of payroll and compliance with federal and state laws regulating employment, leave, overtime, benefits administration, and Town policies. Work requires a more detailed understanding of the design and functionality of the Town's pay program and how it is integrated into the Town's accounting and budgeting process. The Human Resources Specialist administers the employee benefits program and is the designated Health Benefit Representative for the State Health Plan per Department of State Treasurer (DST) SHP-POL-3014-SHP. Employees in this class exercises a considerable degree of independence of action on cyclical payroll processing and judgment in the interpretation and application of payroll and Human Resource policy and practices. Work requires judgment, discretion, and confidentiality. Work is performed under the general supervision of the Town Manager and is evaluated by regular conferences, observation, feedback from departments and employees, review of reports, and attainment of individual performance objectives. This classification is non-supervisory.

Essential Duties and Responsibilities

- Administers payroll process biweekly; reviews employee time cards for accuracy, prepares payroll reports, transfers funds for ACH, submits payroll tax deposits, generates and submits retirement reports, complies with legal wage garnishments, creates appropriate accounting entries for the finance director, manages payroll changes for salary and leave increases, new employee deductions, other wage changes.
- Ensures Town compliance with all payroll reporting, prepares and reconciles all federal and state tax withholding reporting, prepares and files quarterly and annual payroll tax returns.
- Prepares W2s and W3. Ensures reporting compliance to the Social Security Administration and North Carolina Department of Revenue.
- Ensures Town compliance with Form I-9 retention, E-Verify, and new hire reporting.
- Ensures Town compliance with EEOC laws, FLSA, FMLA, NC Labor Law and consults on matters concerning potential claims of discrimination or harassment.
- Generates Personnel Action Forms for new hires, promotions, demotions or terminations, retirement, and other position and rate changes in accordance with N.C. G.S. § 159-28(a).
- Audits and reconciles benefit accounts, coordinates payment and reconciliation with accounts payable and benefit providers.
- Reconciles payroll bank account and monthly benefit invoices. Prepares benefit and payroll reports for the Finance Director.
- State Health Plan Health Benefits Representative (HBR), per Department of State Treasurer (DST) SHP-POL-3014-SHP and N.C. G.S. § 135-1(13) the HBR is responsible for enrolling new employees and dependents in accordance with the eligibility requirements, reporting changes, explaining benefits, reconciling group statements, and remitting group fees.

- Administers Workers' Compensation program.
- Coordinates recruiting efforts and advertising of job vacancies, serves on interview panels, maintains applicant records, prepares candidate job offer letter for the Town Manager, completes background check paperwork and schedules pre-employment drug screening.
- Conducts employee on-boarding, assuring proper completion of required employment forms, provides employee benefit education and submits benefit enrollment forms.
- Monitors new employee probationary period advises Department Head of administrative actions required.
- Administers employee appraisal program in coordination with the Town Manager.
- Maintains confidential personnel records.
- Conducts exit interviews.
- Consults with Department Heads and Town Manager regarding the Town of Lake Lure's personnel policy, state and federal employment laws, and disciplinary action.
- Conducts investigations of personnel grievances.
- Compiles all reports and information for payroll functions as needed for the annual Town audit.
- Compiles all reports and information needed for the annual Worker's Compensation audit.
- Maintains employee incentive bonus program including budget preparation and employee payout at the beginning of the fiscal year.
- Invoices and collects retiree insurance premiums.
- Performs Notarial duties for the Town.
- Provides customer service at the front desk as needed.
- Serves as Deputy Town Clerk.
- Serves as Tax Collector.
- Issues Municipal Beer and Wine permits.
- Performs other job-related tasks as required.

Knowledge, Skills and Abilities

- Considerable knowledge of principles and procedures for personnel recruitment, selection, training, compensation and benefits, labor relations and negotiation.
- Considerable knowledge of state and federal employment laws.
- Considerable knowledge of federal and state tax laws and guidelines.
- Considerable knowledge of payroll and accounting software applications.
- Considerable knowledge of the Town's Personnel Policy.
- Considerable knowledge of the NC Retirement System and State Health Plan.
- Knowledge of federal, state and local laws and regulations governing public personnel administration.
- Knowledge of basic accounting principles.
- Knowledge of administrative and clerical procedures and systems such as word processing, managing files and records, designing forms, and other office procedures and terminology.
- Ability to communicate effectively verbally and in writing.

- Ability to establish and maintain effective working relationships with Town officials, management, employees, and general public.
- Ability to exercise good judgment, maintain confidentiality, and the use of discretion.
- Ability to plan, organize, and prioritize work processes.
- Ability to learn and utilize payroll, accounting and other Town software programs.
- Ability to be fair and impartial when investigating personnel matters.
- Ability to thoroughly document personnel matters being detailed and concise.
- Skill in the use of office-based computer hardware and software applications including Microsoft Office and Black Mountain Software.

Education

Bachelor's degree in human resources, business administration, public administration or related field or five (5) or more years of relevant work experience.

Experience

Three (3) to five (5) of responsible experience in the processing and oversight of public or private sector payroll and personnel administration.

Physical Requirements

This is sedentary work requiring the exertion of up to 10 pounds of force occasionally and a negligible amount of force frequently or constantly to move objects. Work requires reaching, fingering, and repetitive motions. Vocal communication is required for expressing or exchanging ideas by means of the spoken word. Hearing is required to perceive information at normal spoken word levels. Visual acuity is required to prepare and analyze written or computer data, determine the accuracy and thoroughness of work, and observe general surroundings and activities.

Working Conditions

Work is typically performed in an office setting with a temperature controlled environment and no exposure to external environmental conditions.

Special Requirements

- Valid North Carolina Driver's License
- Human Resources Certification (IPMA or SHRM) or ability to attain
- Notary Public

FLSA Status: Non-Exempt

Disclaimer

This classification specification has been designed to indicate the general nature and level of work performed by employees within this classification. It is not designed to contain or be interpreted as a comprehensive inventory of all duties, responsibilities, and qualifications required of employees to

perform the job. The Town of Lake Lure reserves the right to assign or otherwise modify the duties assigned to this classification.

Approved February 2021
TM Revised 2/3/21

Customer Service Specialist

Primary Reason Why Classification Exists

To perform skilled administrative and financial work in support of the Town's utility billing and revenue collection functions.

Distinguishing Features of the Class

An employee in this class is responsible for the activities involved in the establishment and maintenance of customer utility accounts; generating and mailing utility bills; responding to customer inquiries, opening and closing utility accounts; preparing and monitoring bank drafts; preparing and verifying a variety of electronic and manual reports and records; generates work orders; and collects a variety of funds for Town's fees and services. Work is characterized by the accuracy of the many detailed procedural steps involved in the work and the required independent knowledge of the utility billing process and computer application. Work includes clerical duties for the Utility Advisory Board. Work also involves public contact functions and coordination with other departments within the Town. Considerable tact and courtesy are required in the public contact functions. Work is performed under general supervision of the Finance Director and is evaluated through work performance reviews, feedback, conferences, accuracy of work, documented customer service records and bills, and thoroughness of assigned responsibilities.

Essential Duties and Responsibilities

- Administers the monthly utility billing cycle; manually enters utility readings; analyzes data and identifies high or incorrect readings and requests rereads; generates and prints utility bills; and ensures accuracy of billing and accounts.
- Processes customer requests for new services, transfers, extensions, and disconnections; prepares cut off lists; generates work orders for new service, changes in service and rereads.
- Monitors monthly billing cycle for billing information accuracy and ensures the work is performed within established deadlines; generates final register.
- Processes cut-off, late payment and final notices lists.
- Responds to and /or contacts customers by phone or email for utility service issues; explains Town policies and procedures; investigates and resolves customer problems and complaints; adjusts billing or late payment penalties as appropriate.
- Reconciles and prepares monthly collections/expenditures report for Chimney Rock Water and disburses funds.
- Investigates unauthorized sewer users; determines connection fees and/or penalties; makes water and sewer adjustments in accordance with Town policy.
- Oversees the Town's marina boat slip rentals; processes new applications and renewal forms for commercial boat licenses and permits; educates the public on the applicable Town regulations; collects associated fees.
- Attends monthly Utility Board meetings, prepares agenda and records meeting minutes.
- Processes and sends no-wake citations to violators.

- Provides coverage for customer service desk; greets visitors, answers telephone calls and emails; accepts and posts payments; and issues boat permits.
- Monitors office supplies and places orders as needed or requested.
- Performs related duties as required.

Knowledge, Skills, and Abilities

- Considerable knowledge of utility billing terminology, methods, processes, procedures, and equipment.
- Considerable knowledge of standard office practices, techniques, procedures and equipment.
- Considerable proficiency in the use of word processing and spreadsheet software.
- Considerable knowledge and understanding of the various utility rates and schedules.
- Working knowledge of paraprofessional accounting principles and practices.
- Ability to create and maintain accurate records, reports, and files in support of cash receipting and customer oriented operations.
- Ability to identify errors in billing and balance accounts.
- Ability to learn and use the latest billing and collections software as needed.
- Ability to explain rules and regulations concerning applications and charges for utilities services.
- Ability to effectively communicate verbally and in writing.
- Ability to process and accurately complete necessary records, reports, and other paper work to provide quick and efficient customer service.
- Ability to deal with customers with tact and courtesy and maintain control in sensitive and difficult situations.
- Ability to develop and maintain effective working relationships with customers, co-worker, and department heads.
- Ability to pay attention to detail and produce accurate work products.
- Possess prioritization skills for adapting to workload demands in a fast paced work environment.
- Time management skills.

Physical Requirements

Work is generally sedentary requiring the exertion of up to 10 pounds of force occasionally and a negligible amount of force frequently or constantly to move objects. Employee must have visual acuity to be able to prepare and analyze data and figures for accounting, perform extensive reading, operate a computer and other office equipment, determine accuracy and thoroughness of work, observe general surroundings and activities. Vocal communication is required for expressing or exchanging ideas by means of the spoken word. Hearing is required to perceive information at normal spoken word levels.

Working Conditions

Work is performed in an office with a controlled environment without exposure to harmful conditions.

Education

High school diploma or equivalent

Experience

Five (5) – Seven (7) years' experience in a billing operation involving multiple step tasks and use of billing software and experience in customer service; or an equivalent combination of education and experience..

Special Requirements

Valid North Carolina Driver's License

FLSA Status: Non-Exempt

Disclaimer

This classification specification has been designed to indicate the general nature and level of work performed by employees within this classification. It is not designed to contain or be interpreted as a comprehensive inventory of all duties, responsibilities, and qualifications required of employees to perform the job. The Town of Lake Lure reserves the right to assign or otherwise modify the duties assigned to this classification.

July 2016

Revised February 2021

Human Resources/ Customer Service Specialist

Primary Reason Why Classification Exists

To perform a variety of administrative, technical, and analytical work involved in the administration of the Town's Human Resources and Customer Service functions including, recruitment and selection, employee benefits administration, employee relations, records management and performs skilled administrative and financial work in support of the Town's utility billing and revenue collection functions.

Distinguishing Features of the Class (Human Resources)

An employee in this class is responsible for administering the Town's Human Resource programs. Emphasis of the work is on developing and following procedures and work processes to ensure accuracy of payroll and compliance with federal and state laws regulating employment, leave, overtime, benefits administration, and Town policies. Work requires a more detailed understanding of the design and functionality of the Town's pay program and how it is integrated into the Town's accounting and budgeting process. The Human Resources Specialist administers the employee benefits program and is the designated Health Benefit Representative for the State Health Plan per Department of State Treasurer (DST) SHP-POL-3014-SHP. Employees in this class exercises a considerable degree of independence of action on cyclical payroll processing and judgment in the interpretation and application of payroll and Human Resource policy and practices. Work requires judgment, discretion, and confidentiality. Work is performed under the general supervision of the Town Manager and is evaluated by regular conferences, observation, feedback from departments and employees, review of reports, and attainment of individual performance objectives. This classification is non-supervisory.

Distinguishing Features of the Class (Customer Service)

An employee in this class is responsible for the activities involved in the establishment and maintenance of customer utility accounts; generating and mailing utility bills; responding to customer inquiries, opening and closing utility accounts; preparing and monitoring bank drafts; preparing and verifying a variety of electronic and manual reports and records; generates work orders; and collects a variety of funds for Town's fees and services. Work is characterized by the accuracy of the many detailed procedural steps involved in the work and the required independent knowledge of the utility billing process and computer application. Work also involves public contact functions and coordination with other departments within the Town. Considerable tact and courtesy are required in the public contact functions. Work is performed under general supervision of the Town Manager and is evaluated through work performance reviews, feedback, conferences, accuracy of work, documented customer service records and bills, and thoroughness of assigned responsibilities. This classification is non-supervisory.

Essential Duties and Responsibilities (Human Resources)

- Prepares W2s and W3. Ensures reporting compliance to the Social Security Administration and North Carolina Department of Revenue.
- Ensures Town compliance with Form I-9 retention, E-Verify, and new hire reporting.

- Ensures Town compliance with EEOC laws, FLSA, FMLA, NC Labor Law and consults on matters concerning potential claims of discrimination or harassment.
- Generates Personnel Action Forms for new hires, promotions, demotions or terminations, retirement, and other position and rate changes in accordance with N.C. G.S. § 159-28(a).
- Audits and reconciles benefit accounts, coordinates payment and reconciliation with accounts payable and benefit providers.
- Reconciles payroll bank account and monthly benefit invoices. Prepares benefit and payroll reports for the Finance Director.
- State Health Plan Health Benefits Representative (HBR), per Department of State Treasurer (DST) SHP-POL-3014-SHP and N.C. G.S. § 135-1(13) the HBR is responsible for enrolling new employees and dependents in accordance with the eligibility requirements, reporting changes, explaining benefits, reconciling group statements, and remitting group fees.
- Administers Workers' Compensation program.
- Coordinates recruiting efforts and advertising of job vacancies, serves on interview panels, maintains applicant records, prepares candidate job offer letter for the Town Manager, completes background check paperwork and schedules pre-employment drug screening.
- Conducts employee on-boarding, assuring proper completion of required employment forms, provides employee benefit education and submits benefit enrollment forms.
- Monitors new employee probationary period advises Department Head of administrative actions required.
- Administers employee appraisal program in coordination with the Town Manager.
- Maintains confidential personnel records.
- Conducts exit interviews.
- Consults with Department Heads and Town Manager regarding the Town of Lake Lure's personnel policy, state and federal employment laws, and disciplinary action.
- Conducts investigations of personnel grievances.
- Compiles all reports and information for payroll functions as needed for the annual Town audit.
- Compiles all reports and information needed for the annual Worker's Compensation audit.
- Maintains employee incentive bonus program including budget preparation and employee payout at the beginning of the fiscal year.
- Invoices and collects retiree insurance premiums.
- Performs Notarial duties for the Town.
- Provides customer service at the front desk as needed.
- Serves as Tax Collector.
- Issues Municipal Beer and Wine permits.
- Performs other job-related tasks as required.

Knowledge, Skills and Abilities (Human Resources)

- Considerable knowledge of principles and procedures for personnel recruitment, selection, training, compensation and benefits, labor relations and negotiation.
- Considerable knowledge of state and federal employment laws.
- Considerable knowledge of federal and state tax laws and guidelines.

- Considerable knowledge of payroll and accounting software applications.
- Considerable knowledge of the Town's Personnel Policy.
- Considerable knowledge of the NC Retirement System and State Health Plan.
- Knowledge of federal, state and local laws and regulations governing public personnel administration.
- Knowledge of basic accounting principles.
- Knowledge of administrative and clerical procedures and systems such as word processing, managing files and records, designing forms, and other office procedures and terminology.
- Ability to communicate effectively verbally and in writing.
- Ability to establish and maintain effective working relationships with Town officials, management, employees, and general public.
- Ability to exercise good judgment, maintain confidentiality, and the use of discretion.
- Ability to plan, organize, and prioritize work processes.
- Ability to learn and utilize payroll, accounting and other Town software programs.
- Ability to be fair and impartial when investigating personnel matters.
- Ability to thoroughly document personnel matters being detailed and concise.
- Skill in the use of office-based computer hardware and software applications including Microsoft Office and Black Mountain Software.

Essential Duties and Responsibilities (Customer Service)

- Administers the monthly utility billing cycle; manually enters utility readings; analyzes data and identifies high or incorrect readings and requests rereads; generates and prints utility bills; and ensures accuracy of billing and accounts.
- Processes customer requests for new services, transfers, extensions, and disconnections; prepares cut off lists; generates work orders for new service, changes in service and rereads.
- Monitors monthly billing cycle for billing information accuracy and ensures the work is performed within established deadlines; generates final register.
- Processes cut-off, late payment and final notices lists.
- Responds to and /or contacts customers by phone or email for utility service issues; explains Town policies and procedures; investigates and resolves customer problems and complaints; adjusts billing or late payment penalties as appropriate.
- Reconciles and prepares monthly collections/expenditures report for Chimney Rock Water and disburses funds.
- Investigates unauthorized sewer users; determines connection fees and/or penalties; makes water and sewer adjustments in accordance with Town policy.
- Oversees the Town's marina boat slip rentals; processes new applications and renewal forms for commercial boat licenses and permits; educates the public on the applicable Town regulations; collects associated fees.
- Attends monthly Utility Board meetings, prepares agenda and records meeting minutes.

- Processes and sends no-wake citations to violators.
- Administers the monthly utility billing cycle; manually enters utility readings; analyzes data and identifies high or incorrect readings and requests rereads; generates and prints utility bills; and ensures accuracy of billing and accounts.
- Processes customer requests for new services, transfers, extensions, and disconnections; prepares cut off lists; generates work orders for new service, changes in service and rereads.
- Monitors monthly billing cycle for billing information accuracy and ensures the work is performed within established deadlines; generates final register.
- Processes cut-off, late payment and final notices lists.
- Responds to and /or contacts customers by phone or email for utility service issues; explains Town policies and procedures: investigates and resolves customer problems and complaints; adjusts billing or late payment penalties as appropriate.
- Reconciles and prepares monthly collections/expenditures report for Chimney Rock Water and disburses funds.
- Investigates unauthorized sewer users; determines connection fees and/or penalties; makes water and sewer adjustments in accordance with Town policy.

Education

Bachelor's degree in human resources, business administration, public administration or related field or five (5) or more years of relevant work experience.

Experience

Three (3) to five (5) of responsible experience in the processing and oversight of public or private sector payroll and personnel administration. Five (5) – Seven (7) years' experience in a billing operation involving multiple step tasks and use of billing software and experience in customer service; or an equivalent combination of education and experience.

Physical Requirements

This is sedentary work requiring the exertion of up to 10 pounds of force occasionally and a negligible amount of force frequently or constantly to move objects. Work requires reaching, fingering, and repetitive motions. Vocal communication is required for expressing or exchanging ideas by means of the spoken word. Hearing is required to perceive information at normal spoken word levels. Visual acuity is required to prepare and analyze written or computer data, determine the accuracy and thoroughness of work, and observe general surroundings and activities.

Working Conditions

Work is typically performed in an office setting with a temperature controlled environment and no exposure to external environmental conditions.

Special Requirements

- Valid North Carolina Driver's License
- Human Resources Certification (IPMA or SHRM) or ability to attain

- Notary Public

FLSA Status: Non-Exempt

Disclaimer

This classification specification has been designed to indicate the general nature and level of work performed by employees within this classification. It is not designed to contain or be interpreted as a comprehensive inventory of all duties, responsibilities, and qualifications required of employees to perform the job. The Town of Lake Lure reserves the right to assign or otherwise modify the duties assigned to this classification.

**LAKE LURE TOWN COUNCIL
AGENDA ITEM REQUEST FORM
Meeting Date: March 22, 2023**

SUBJECT: Review Olympiad Lure of the Lake Swim Event Request for Waivers

AGENDA INFORMATION:

Item Number: XI
Department: Communications
Contact: Debra Warren, Chairperson, Olympiad Committee
Presenter: Laura Krejci, Communications Director

BRIEF SUMMARY:

The Olympiad will be hosting the annual Lure of the Lake Swim Event on June 10, 2023 at the Lake Lure Beach. A request is being made for a Waiver of the Noise Ordinance, Chapter 20 Article II on June 10, 2023 from 6:00 am until 10:00 am for this event. The start time for the competition is 8:00 am. This item will be on the April 11th agenda for approval.

**LAKE LURE TOWN COUNCIL
AGENDA ITEM REQUEST FORM
Meeting Date: March 22, 2023**

SUBJECT: Town Email Discussion

AGENDA INFORMATION:

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

BRIEF SUMMARY:

Town staff and Council will discuss methods of communication and make recommendations for improvement.

**LAKE LURE TOWN COUNCIL
AGENDA ITEM REQUEST FORM
Meeting Date: March 22, 2023**

SUBJECT: Project Updates

AGENDA INFORMATION:

Item Number: XIII
Department: Project Management
Contact: Mike Dydula, Project Manager
Presenter: Mike Dydula, Project Manager

BRIEF SUMMARY:

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

ATTACHMENTS:

Project Manager Progress Report

Project Manager Progress Report 03-20-23:

- 1) Dam: Working on getting funding for survey & geotech work. This will allow Schnabel to start the 30% design documents
- 2) Sunset Cove Sanitary Sewer: Ruby Collins is working on 9th Boring this week. Will try to get 10th boring next week if site constraints allow. All stakeholders had meeting 2 weeks ago and we are expecting a GMP proposal from Ruby Collins in Early March. We are currently working on exact dates for next year's draw down.
- 3) Deep Water Access: Awaiting response from Engineer of record Kim Warner to make site visit and address Tim Edwards's retaining wall questions. Still waiting for a signed contract from Chris Tott who will be the General Contractor on the project.
- 4) Reservoir Drain (Dam Valves): Bid Opening has been extended to 3/28 to allow Contractors more time address addendums and additional questions. Schnabel has given us their proposal for \$467,785.96 for CA services for the project. We are in the process of retaining a Real Estate lawyer for use of land on the downstream side of dam not owned by the Town.
- 5) HDD Subaqueous Sewer: Bid opening has been extended to 4/18 to allow contractors more time to review. We technically do not have a formal engineers estimate.
- 6) Dredging: Still have not retained a design firm at this time. Will be working on a RFQ soon. Tim Edwards has been making progress at the eastern end of the channel where it flows into the opening of the lake.
- 7) WWTP: Will be retaining a real estate lawyer soon to help with a realtor firm in looking at potential sites for the new WWTP.
- 8) New Public Works Relocation/Site: Terminated agreement with Willis General Contracting for the pre-engineered building. Project was not bid per NC statues for a "formal" project. Scope will be reduced to just a laydown yard for Dam projects moving forward. Will be sending out an RFQ for engineering services to develop and build the site.
- 9) AIA Grant – Sewer: Progress is ongoing.
- 10) AIA Grant – Water: Labella is still working on this.
- 11) AIA Grants– Storm: I will be trying to work with Labella on this in the near future.
- 12) Underground Storage Tanks: No change since last meeting. Hope to start in the next week.
- 13) Firefly Cove Water Wells: Labella is still working with Public Works. They are around 85% complete.
- 14) Chimney Rock Water/Sewer Agreement: Refer to Town Managers comments.
- 15) Chimney Rock/Lake Lure River Walk/ Streetscape: Had initial meeting with key stakeholders recently and will be getting more involved soon. (No change since last meeting).
- 16) RAISE Grant – NCDOT: Will be working with Town Manager on this. Have upcoming meetings planned with Design firm.

New:

Luremont Bridge: Helping Parks and Rec to get an agreement for design services.

177 Tryon Bay Circle: Working on getting a structural engineer under contract to provide scope documents and demo plans to put out for bid.

NCDOT – New Bridge: Will be having several meeting with stakeholders on new bridge and dam location and scope of work.

Knight Strategies Financial Audit: Working with finance director on projects/documents/finances for Morse Park and Dredging activities.

**LAKE LURE TOWN COUNCIL
AGENDA ITEM REQUEST FORM
Meeting Date: March 22, 2023**

SUBJECT: Town Manager Updates

AGENDA INFORMATION:

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

BRIEF SUMMARY:

Town Manager Hank Perkins will provide Council with updates in regard to ongoing operations.

**LAKE LURE TOWN COUNCIL
AGENDA ITEM REQUEST FORM
Meeting Date: March 22, 2023**

SUBJECT: Lake Drawdown Schedule Update

AGENDA INFORMATION:

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

BRIEF SUMMARY:

With this year's Lake Drawdown Schedule coming to an end, Town Council will discuss raising the lake and review project outcomes that occurred during Lake Drawdown.

**LAKE LURE TOWN COUNCIL
AGENDA ITEM REQUEST FORM
Meeting Date: March 22, 2023**

SUBJECT: Fireworks Discussion

AGENDA INFORMATION:

Item Number: XVI
Department: Administration
Contact: Hank Perkins, Town Manager
Presenter: Laura Krejci, Communications Director

BRIEF SUMMARY:

Town Council recently decided to forego the 4th of July Fireworks Event and utilize the funds for this event to purchase and improve holiday lighting and décor. There have been various comments on the matter and one request from a private company to hold a fireworks event. Town staff would like to review the comments and request, and asks that Town Council provide any feedback.

**LAKE LURE TOWN COUNCIL
AGENDA ITEM REQUEST FORM
Meeting Date: March 22, 2023**

SUBJECT: ABC Store Move

AGENDA INFORMATION:

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

BRIEF SUMMARY:

The ABC Store will be re-locating to the Strip Plaza on Memorial Highway, formerly the Hickory Nut Gorge Outreach location. Town Council will address the moving details.

LAKE LURE TOWN COUNCIL
AGENDA ITEM REQUEST FORM
Meeting Date: March 22, 2023

SUBJECT: Schnabel Work Order No. 7A - Reservoir Drain Construction Services

AGENDA INFORMATION:

Item Number: XVIII
Department: Dam
Contact: Michael Dydula, Project Manager
Presenter: Michael Dydula, Project Manager

BRIEF SUMMARY:

Schnabel Engineering has submitted a proposal for Work Order No. 7A. The proposed Word Order is for professional dam engineering services associated with the construction of the planned reservoir drain at Lake Lure Dam. Such services include providing construction phase services for the installation of the reservoir drain at Lake Lure Dam. Services for this project will be performed under the supervision of a Professional Engineer(s) licensed in the State of North Carolina. The lump sum of the services listed in proposed Work Order No. 7A is \$467,785.96.

ATTACHMENTS:

18P21021.04.02, Work Order No. 7A, Professional Dam Engineering Services for the Reservoir Drain Construction at Lake Lure Dam, Lake Lure, North Carolina



March 16, 2023

Mr. Michael Dydula, PE
Project Manager
Town of Lake Lure
2948 Memorial Highway
Lake Lure, NC 28746

Subject: 18P21021.04.02, Work Order No. 7A, Professional Dam Engineering Services for the Reservoir Drain Construction at Lake Lure Dam, Lake Lure, North Carolina

Dear Mr. Dydula:

SCHNABEL ENGINEERING SOUTH, P.C. (Schnabel) is pleased to submit this work order proposal for professional dam engineering services associated with the construction of the planned reservoir drain at Lake Lure Dam.

BACKGROUND

The Town of Lake Lure (Town) is planning the installation of the reservoir drain as the first phase in the overall rehabilitation of Lake Lure Dam. In addition to addressing a major dam safety requirement, the reservoir drain will allow the Town to further lower the reservoir level, beyond the limitations of the existing spillway gates, to support the rehabilitation of the sanitary sewer system and additional maintenance activities such as lake dredging or work on the spillway gates. During the virtual workshop held on March 17, 2020, with representatives from the Town, the Town's consultants, NCDEQ Dam Safety, and the regulatory agencies responsible for the sanitary sewer system, NCDEQ Dam Safety indicated that they were agreeable to this phased approach of first installing the reservoir drain. The reservoir drain design is complete and has been approved by NCDEQ Dam Safety. The project is currently out for construction bids with bids due on March 28, 2023. The Town intends to award the reservoir drain construction contract to the selected contractor at their April 11, 2023 Town Council meeting and provide Notice-to-Proceed shortly thereafter. The Town has procured the reservoir drain valves under a separate contract, and valve delivery is scheduled for June 2023.

SCOPE OF SERVICES

The objectives of Schnabel's services proposed under this work order are to provide construction phase services for the installation of the reservoir drain at Lake Lure Dam. Services for this project will be performed under the supervision of a Professional Engineer(s) licensed in the State of North Carolina. The scope of services for this portion of the project is described in detail below.

Task 01 – Construction Phase Services

The construction services scope of work proposed herein includes providing construction observation and documentation as will be required by the contract documents. In addition, Schnabel will provide contract administration services for the execution of the contract between the Owner (Town) and the selected Contractor. This is a unique project requiring a high level of engineering support and observation during construction since the work will be performed under near full head conditions (at or above the existing spillway gate sill elevation). As a result, Schnabel proposes to provide a full-time Resident Project Representative (RPR) to meet the daily demands for quality assurance of the project. In order to develop the preliminary fees for this task, we assumed construction of the proposed improvements will take approximately 5 months to complete, with the RPR on site for 4 out of the 5 months. If the selected Contractor indicates the actual schedule will differ from this assumption, we request the opportunity to revise our fees for this task.

Roles and Responsibilities:

Schnabel's construction project team will consist of the following staff:

- Project Manager
- Project Engineer / Engineer-of-Record (EOR)
- Contract Administrator
- Resident Project Representative (RPR)
- Support Engineers to assist with construction observation, documentation, answer questions, confirm criteria, review submittals, respond to RFIs, review change orders, evaluate differing site conditions, etc.
- Construction Field Technicians, as necessary, to support the RPR with quality assurance observation and testing

The management of the project engineering team will be the responsibility of the Project Manager, and the Project Manager will also be the liaison with the Town. The Project Engineer / Engineer-of-Record (EOR) will be professionally responsible for evaluating the construction's conformance with the approved design documents. Our Project Engineer, Contract Administrator, and/or their designated representative(s) will make bi-weekly site visits and attend on-site progress meetings with the Town and the selected Contractor. We have allocated 20 hours per month on average for these site visits and meetings plus additional general coordination with our RPR and the selected Contractor and technical reviews. We have also allocated an additional 4 hours per week for routine project management activities.

Administrative issues pertaining to the Contract Documents, including Requests for Interpretation (RFIs), pay requests, work directives, change orders, shop drawings, submittals, and managing paperwork flow to the proper engineer review team, will be coordinated through and by the Contract Administrator. The Contract Administrator is budgeted for 8 to 10 hours per week for the duration of construction.

Support Engineers will be available to our project team to review submittals from the Contractor for items like dewatering, excavation, foundation anchors, reservoir drain gate/valve installation, concrete batching, concrete placement (steel tying, formwork, concrete pumping, and consolidation), reservoir drain gate/valve testing and commissioning, test data review, and other engineering aspects of the project.

Support engineering site visits are also anticipated to observe key aspects of construction and to assist the project team with unforeseen issues, clarify design intent, and resolve acceptability of questionable work. We have allocated 12 hours per week as a combined total for engineering support. In addition, we have included four shop inspections during fabrication, including one of the bulkhead, trash rack, knife gate valve, and jet flow gate valve.

Schnabel will also provide full-time construction observation services to provide the selected Contractor with a clear understanding of the design approach and validate that activities are completed in a manner appropriate to the needs of the project. As a part of the quality assurance plan, Schnabel's RPR will provide the following services:

- Attend project coordination and construction progress meetings.
- Observe construction layout of the project.
- Take pre-construction site photographs to validate site conditions prior to the initiation of contractor activities at the site.
- Observe the selected Contractor's activities for compliance of work with the contract documents.
- Observe materials delivered to the site and compare to approved shop drawings and/or specification requirements.
- Assess performance of the work in relation to the project schedule.
- Maintain detailed log books; take photographs of all work in progress; document manpower and equipment on site; and prepare reports for concrete placements, structural modifications, and other activities at the sites.
- Provide regular contact and coordination with our EOR and designated personnel from the Town and other agencies.
- Coordinate site activities with the selected Contractor and review the selected Contractor's monthly payment estimates before they are submitted to the Town for processing.
- Manage and/or perform the required quality assurance testing and sample preparation activities in coordination with local quality assurance technicians (see below) and the selected Contractor's quality control personnel.
- Maintain record drawing information and coordinate Contractor record drawing information for use in developing complete record drawings of the projects.

In addition to the RPR and engineering support through construction, Schnabel will subcontract with a local construction testing firm to perform field and laboratory quality assurance testing services for concrete. Based on our experience with similar projects, we have assumed that technician support will be required for up to 10 full-day site visits over the course of 4 months during the construction period.

Close-Out Documents:

Project close-out documents will include final record documents prepared by Schnabel and reservoir drain operation and maintenance instructions provided by the gate/valve manufacturer. The Contract Administrator will coordinate development of the Record Drawings. He or she will consolidate our records with those maintained by the Contractor and oversee development of a final set of Record Drawings. These Record Drawings will be approved and sealed by the EOR and provided to NCDEQ Dam Safety for approval. We have assumed that the Town will provide any construction approval fees required by NCDEQ Dam Safety.

Schnabel will also provide services for construction close-out including a final walk through with the Owner and Contractor, development of punch list(s), review of final pay application, and processing of Contractor closeout submittals.

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:

- Payment of construction approval fees required by NCDEQ Dam Safety.
- Construction services other than those listed and beyond the durations discussed above.
- Preparation of a comprehensive Operation and Maintenance (O&M) Manual for the dam.
- Post-construction monitoring.

PROJECT FEES

The lump sum fee for these services is **\$467,785.96**. A detailed breakdown of this fee is included as Attachment 1. 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. Our current Schedule of Personnel Fees is included as Attachment 2.

Breakdown of Fees

PAYMENTS

Invoices will be submitted monthly for services provided during the preceding month. A breakdown of labor hours and expenses will be provided with each invoice. Payment terms will be in accordance with the Professional Services Agreement between Schnabel and the Town (Attachment 3).

GENERAL

The Terms and Conditions of the Professional Services Agreement between Schnabel and the Town will apply to the services proposed herein. Your acceptance of this work order proposal by signing and returning one copy of this letter will form our agreement for these services. You may transmit your acceptance of this proposal electronically with the understanding that the signature on the electronic document will be considered an original signature. This work order proposal is valid for 90 days from the date shown.

We appreciate the opportunity to submit our proposal for these services and look forward to continuing to work with the Town on this project. Please contact us if you have any questions regarding this proposal.

Sincerely,

SCHNABEL ENGINEERING SOUTH, P.C.



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

JMP:CMJ

Attachments:

- (1) Detailed Fee Breakdown (1 sheet)
- (2) Schedule of Personnel Fees (1 sheet)
- (3) Professional Services Agreement and Terms and Conditions (5 sheets)

This work order proposal is:

ACCEPTED BY: _____ **TOWN OF LAKE LURE, NC** _____

SIGNATURE: _____

PRINTED NAME: _____

TITLE: _____ **DATE:** _____

ITEM	Senior Associate/Senior Reviewer	Principal / Project Manager	Associate / Engineer of Record	Senior Engineer / Contract Administration and Engineering Support	Senior Staff Engineer / Engineering Support	Construction Resident / Senior RPR	Technician Support	TOTAL SE PERSONNEL TIME	TOTAL SE PERSONNEL COST	TRAVEL AND LIVING										Subtotal Travel Expense	Subtotal Travel Mileage	Subtotal Travel OTAs	TOTAL ALL TRAVEL & LIVING COSTS	OUTSIDE LAB TESTING COSTS		TOTAL OUTSIDE LAB COSTS (\$21.01)	TOTAL IN-HOUSE EXPENSES	TOTAL SUBCONTRACTED EXPENSES	TOTALS	
	Fischer	Pittman	Johnson	Smith, Khodair, Germann, Duke	TBD	TBD	Local Technician(s)			Hotel	Meals	Rental Car + Gas	Airfare	Truck	Per Diem RPR	Mileage from Greensboro (320 Miles Per Trip)	Per Diem Local Tech	(531.14) with	(531.10) with					(531.13) with	with	Concrete Lab	with	with markups		with markups
	2022 Greensboro Rates	\$ 262	\$ 285	\$ 225	\$ 190	\$ 145	\$ 140			\$ 75	\$ 130.00 Day	\$ 35.00 Day	\$ 75.00 Day	\$ 800.00 Roundtrip	\$ 750 Month	\$ 151 Day	\$ 3,595 Mile	\$ 55 Day	10% markup					10% markup	10% markup	10% markup	Cost	10% markup		
Task 01 - Construction Phase Services	204.0	80.0	340.0	683.0	76.0	900.0	100.0	2,383.00	\$ 427,038.00	24.0	36.0	18.0	9.0	4.0	90.0	10,880.0	10.0	\$ 17,823.00	\$ 7,120.96	\$ 15,554.00	\$ 40,197.96	500.0	-	\$ 550.00	\$ 40,197.96	\$ 550.00	\$ 467,785.96			
Pre-Construction Meeting (includes minutes)				12.0				24.00	\$ 4,980.00		2.0					320.0		\$ 77.00	\$ 209.44	\$ -	\$ 286.44			\$ -	\$ 286.44	\$ -	\$ 5,266.44			
Contract Administration (8 hrs/week for 5 months)				175.0				175.00	\$ 33,250.00									\$ -	\$ -	\$ -	\$ -			\$ -	\$ -	\$ -	\$ 33,250.00			
Submittal Review (Bulkhead, Trash Rack, Knife & Jet Flow Valve, Others)	96.0			56.0				252.00	\$ 56,752.00									\$ -	\$ -	\$ -	\$ -			\$ -	\$ -	\$ -	\$ 56,752.00			
Shop Inspections (Bulkhead, Trash Rack, Knife Valve, Jet Flow Valve)	48.0			48.0				192.00	\$ 41,616.00	8.0	12.0	12.0	8.0					\$ 9,636.00	\$ -	\$ -	\$ 9,636.00			\$ -	\$ 9,636.00	\$ -	\$ 51,252.00			
Periodic Site Visits / Attendance at Progress Meetings by EOR and CA (20 hrs/month for 5 months)				80.0				160.00	\$ 33,200.00	8.0	8.0					2,560.0		\$ 1,452.00	\$ 1,675.52	\$ -	\$ 3,127.52			\$ -	\$ 3,127.52	\$ -	\$ 36,327.52			
Dam Penetration, Valve Install, Startup and Commissioning	40.0			60.0				220.00	\$ 46,780.00	4.0	6.0	6.0	1.0			320.0		\$ 2,178.00	\$ 209.44	\$ -	\$ 2,387.44			\$ -	\$ 2,387.44	\$ -	\$ 49,167.44			
Construction Resident (Senior RPR) (Avg 50 hrs/week for 4 months)						900.0		900.00	\$ 126,000.00				4.0	90.0	5,760.0			\$ 3,300.00	\$ 3,769.92	\$ 14,949.00	\$ 22,018.92			\$ -	\$ 22,018.92	\$ -	\$ 148,018.92			
Construction Technician Support (Provided by Local Subconsultant - Assume 10 days on-site plus travel)							100.0	100.00	\$ 7,500.00								10.0	\$ -	\$ -	\$ 605.00	\$ 605.00	500	\$ 550.00	\$ 605.00	\$ 550.00	\$ 6,655.00				
Engineering Office Review and Support (Avg 8 hrs/wk for 5 months)	16.0			60.0		60.0		196.00	\$ 37,792.00	4.0	4.0					1,280.0		\$ 726.00	\$ 837.76	\$ -	\$ 1,563.76			\$ -	\$ 1,563.76	\$ -	\$ 39,355.76			
Project Management (4 hrs/wk for 5 months)		80.0						80.00	\$ 22,800.00									\$ -	\$ -	\$ -	\$ -			\$ -	\$ -	\$ -	\$ 22,800.00			
Completion Walkthroughs / Punchlist (Assume 2 visits)				16.0	24.0			40.00	\$ 8,160.00		4.0					640.0		\$ 154.00	\$ 418.88	\$ -	\$ 572.88			\$ -	\$ 572.88	\$ -	\$ 8,732.88			
Construction Closeout and Record Documents	4.0			8.0	16.0			44.00	\$ 8,208.00									\$ -	\$ -	\$ -	\$ -			\$ -	\$ -	\$ -	\$ 8,208.00			
								-	\$ -									\$ -	\$ -	\$ -	\$ -			\$ -	\$ -	\$ -	\$ -			
QUANTITY	204.0	80.0	340.0	683.0	76.0	900.0	100.0	2,383.00		24.0	36.0	18.0	9.0	4.0	90.0	10,880.0	10.0													
TOTAL COST	\$53,448.00	\$ 22,800.00	\$ 76,500.00	\$ 129,770.00	\$ 11,020.00	\$ 126,000.00	\$ 7,500.00	\$ 427,038.00		\$ 3,120.00	\$ 1,260.00	\$ 1,350.00	\$ 7,200.00	\$ 3,000.00	\$ 13,590.00	\$ 6,473.60	\$ 550.00	\$ 17,823.00	\$ 7,120.96	\$ 15,554.00	\$ 40,197.96	\$ 500.00	\$ -	\$ 550.00	\$ 40,197.96	\$ 550.00	\$ 467,785.96			

SCHEDULE OF PERSONNEL FEES – GREENSBORO, NORTH CAROLINA
Effective until December 31, 2022

Senior Consultant	\$290.00/hr
Principal	285.00/hr
Senior Associate	256.00/hr
Associate	225.00/hr
Senior Engineer/Scientist	190.00/hr
Project Engineer/Scientist	165.00/hr
Construction Resident Engineer/Resident Project Representative	165.00/hr
Senior Staff Engineer/Scientist/Technologist	145.00/hr
Staff Engineer/Scientist/Technologist	125.00/hr
Senior Technician II/Construction Resident Technician (see note 4)	119.00/hr
Senior Technician I (see note 4)	99.00/hr
Technician III (see note 4)	88.00/hr
Technician II (see note 4)	73.00/hr
Technician I (see note 4)	62.00/hr
CADD III	130.00/hr
CADD II	122.00/hr
CADD I	99.00/hr
Clerical/Admin	79.00/hr

NOTES:

1. Personnel fees will be based upon the actual hours charged times the appropriate hourly rate.
2. Travel by auto to and from jobs will be charged at the current IRS prevailing rate, plus a markup of 15% to cover handling, insurance and overhead. Travel by air or rail, lodging and meal expenses for personnel in the field will be billed at cost plus a 15% markup.
3. Per Diem rates for out-of-town or overnight travel will be in accordance with U.S. General Services Administration rates published on website www.GSA.gov for the area in which the project is located.
4. Overtime for Technicians is time for work on Saturday, Sunday and federal holidays, time in excess of 8 hours per day, and time between the hours of 7:00 P.M. and 7:00 A.M. A surcharge of \$15/hr is added to the above rate for overtime.
5. Subcontractors and other non-labor project expenses are marked up 15% to cover the cost of handling, insurance and overhead.
6. Schedule of Fees will increase by four percent on January 1, 2023, and annually thereafter.

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

XIX

ADJOURNMENT