

LAKE LURE TOWN COUNCIL SPECIAL MEETING PACKET

Monday, June 16, 2025
9:00 a.m.



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

**TOWN OF LAKE LURE
SPECIAL TOWN COUNCIL MEETING**

Monday, June 16, 2025 at 9:00 a.m.

Lake Lure Fire Department



Agenda

- I. Call to Order**
- II. Consider Approval of Proposed Lease for Temporary Town Hall/Police Department at The Landings - Page 1**
- III. Consider Approval of Amendment 2 to LaBella Task 23B – Sewer Replacement – MH 34 to 32 (*now 35B*) - Page 10**
- IV. Adjournment**

**LAKE LURE TOWN COUNCIL
AGENDA ITEM REQUEST FORM
Meeting Date: June 16, 2025**

SUBJECT: Consider Approval of Proposed Lease for Temporary Town Hall/Police Department at The Landings

AGENDA INFORMATION:

Item Number: II
Department: Administration
Contact: Olivia Stewman, Town Manager
Presenter: Olivia Stewman, Town Manager

BRIEF SUMMARY:

The Town continues to work with FEMA regarding the future of the Town Hall and Police Department as the former offices were damaged by Tropical Storm Helene. It is evident that this process may take longer to resolve than originally anticipated. Town staff has been operating temporarily out of the Arcade Building or sharing facilities with other departments. While the Town has made this setup work temporarily, increased space needs are evident and it has proven to be a challenge to function effectively with inadequate space. The Landings has offered the use of their facilities as they are not currently operating. This facility would offer an abundance of space for storage, staff operations, and for meetings to occur on a regular basis without conflict. At least a portion of costs of the lease will be eligible for FEMA reimbursements. This lease would create a longer term solution and relieve numerous challenges that are currently being faced as the Town and FEMA determine the best permanent option for replacing or restoring damaged Town facilities.

RECOMMENDED MOTION AND REQUESTED ACTIONS:

To approve Proposed Lease for Temporary Town Hall/Police Department at The Landings.

ATTACHMENTS:

Proposed Lease Agreement

STAFF'S COMMENTS AND RECOMMENDATIONS:

Staff recommends approval.

MONTH-TO-MONTH COMMERCIAL LEASE AGREEMENT

This Month-to-Month Commercial Lease Agreement ("Agreement") is made and entered into as of this ____ day of _____, 2025, by and between Rutherfordco, LLC ("Landlord"), whose address for the purpose of this Lease is 920 Buffalo Creek Road, Lake Lure, NC 28746, and The Town of Lake Lure, a North Carolina municipal corporation, having its principal place of business at [insert municipal address], Lake Lure, NC ("Tenant").

RECITALS:

WHEREAS, Landlord is the lawful owner of certain real property, including the building and improvements located at 920 Buffalo Creek Road, Lake Lure, NC 28746 (the "Premises"); and

WHEREAS, Tenant desires to lease the Premises from Landlord for governmental and municipal purposes on a month-to-month basis, and Landlord is willing to lease the same to Tenant, on the terms and conditions set forth herein.

WITNESSETH:

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the parties hereby agree as follows:

1. PREMISES - Landlord hereby leases to Tenant, and Tenant rents from Landlord, the Premises described above, together with all improvements thereon and appurtenances thereto, including but not limited to parking areas, access ways, landscaping, and any ancillary structures, for exclusive use by Tenant as governmental and administrative offices and for related lawful municipal purposes.

2. TERM - The term of this Lease shall commence on the ____ day of _____, 2025, ("Commencement Date") and shall continue on a month-to-month basis thereafter. Either party may terminate this Lease at any time by providing at least thirty (30) days' prior written notice to the other party. The Lease shall automatically renew for successive one-month terms unless and until terminated as provided herein.

3. RENT

- a) Tenant agrees to pay Landlord, without any set offs or deductions whatsoever, a fixed net rental payment ("Rent") of Fifteen Thousand and No/100 Dollars (\$15,000.00), due and payable in equal monthly installments in advance, on or before the Commencement Date and thereafter on the first calendar day of each month during the Initial Term and any Renewal Term.
- b) If the Commencement Date is a day other than the first of the month, the first installment shall be prorated for each day commencing with the Commencement Date up to and including the last day of that month. If Rent is not received within ten (10) days after due date, the Tenant is subject to a one-time late fee of (10%) percent of all Rents due at that time.
- c) The Rent is consistent with fair market value in an arms-length transaction.
- d) Tenant shall pay the Rent by sending a check made payable to Landlord for the entire Rent amount to the following address:

Rutherfordco, LLC
Attn: Beth Taylor-Robinson
P.O. Box 2568
Hickory, North Carolina 28603

4. CONDITION OF THE PREMISES - Tenant agrees to accept the Premises on the Commencement Date in its "as is" condition, it being expressly understood and agreed that Landlord shall not be required to perform any work or make any repair, replacement, change, renovation, addition or alteration at or to the premises or adjoining areas. It is the purpose and intent of the Landlord and Tenant that the Rent shall be based upon a triple net rent lease structure and that all costs, expenses and obligations of every kind and nature whatsoever relating to the Leased Premises which may arise or become due during or out of the Lease Term, shall be paid by the Tenant, except for such obligations and charges as have otherwise expressly been assumed by the Landlord in accordance with the terms and conditions of the Lease.

5. UTILITIES - All utility accounts; including electricity, gas, water, sewer, trash removal, telephone, internet, and other telecommunications services, including account setup, service fees, and usage charges; for the Premises shall be established and maintained in Landlord's name. Landlord shall be responsible for timely payment of all utility bills directly to the utility providers.

6. OPERATING COSTS - Tenant shall be solely responsible for and shall promptly pay all costs associated with the operation and occupancy of the Premises during the term of this Lease, including but not limited to:

- a) Routine janitorial services, pest control, and interior maintenance required to keep the Premises in a clean, safe, and tenantable condition;

- b) Costs of any required governmental inspections, certifications, or compliance updates applicable to Tenant's use of the Premises.

7. USE OF PREMISES - The Premises shall be used exclusively for governmental, administrative, and related municipal purposes. Tenant shall not use or permit the Premises to be used for any unlawful, hazardous, or commercial activity not directly related to its municipal operations. Tenant shall be responsible for obtaining and maintaining all necessary permits, licenses, and authorizations required by local, state, or federal laws for its operations.

8. MAINTENANCE AND REPAIRS

- a) Tenant shall, at its sole cost and expense, repair, replace, and maintain all portions of the Premises in good condition and repair, including but not limited to: (i) all interior and exterior components such as flooring, paint, windows, doors, walls, ceilings, lighting fixtures, cabinetry, parking areas, fixtures, bathrooms, and lavatory facilities; (ii) all building systems including heating, ventilation, air conditioning, plumbing, electrical, mechanical, sewer, fire detection, sprinkler, life safety, and security systems (together, "Property Systems"); (iii) any furniture or equipment brought onto the Premises; and (iv) keeping all areas clean, orderly, and free of dirt, rubbish, and other obstructions. Tenant shall be responsible for any damage caused by its employees, contractors, invitees, or agents.
- b) Notwithstanding anything to the contrary in this Lease, Tenant shall be responsible for all repairs and maintenance of the Premises, including structural components, roof, exterior walls, and foundation. Tenant shall promptly notify Landlord in writing of any structural issues or major repairs being undertaken. Landlord shall have the right to inspect any repairs upon reasonable notice to Tenant.
- c) When used in this Section, the term "repair" shall include replacements, restorations and/or renewals when reasonably necessary. All repairs made by Tenant shall be substantially equal in quality and workmanship to the original work.

9. ALTERATIONS - Tenant shall not make any structural alterations or improvements to the Premises without the prior written consent of Landlord. Tenant may make non-structural interior improvements, including painting, installing shelving or furniture, and similar changes necessary for its operations, provided such improvements comply with applicable building codes and are made at Tenant's sole expense. Any permanent alterations not removed upon termination shall become the property of Landlord unless otherwise agreed in writing.

10. INSURANCE

- a) Tenant shall maintain commercial general liability insurance with coverage limits acceptable to the Landlord, with Landlord names as an additional insured. Tenant shall also carry workers' compensation insurance as required by North Carolina law.
- b) Landlord shall maintain insurance coverage for fire and casualty loss on the structure of the Premises, including extended coverage for replacement cost of the building and its fixtures.
- c) Each party shall provide a certificate of insurance to the other upon execution of this Lease and annually thereafter.

11. INDEMNIFICATION - To the fullest extent permitted by law, each party (the "Indemnifying Party") shall indemnify, defend, and hold harmless the other party, its officers, agents, and employees (the "Indemnified Party"), from and against any and all claims, demands, causes of action, liabilities, damages, costs, and expenses (including reasonable attorneys' fees) arising from the Indemnifying Party's negligence, intentional misconduct, or breach of this Lease. This provision shall survive the termination of this Lease.

12. COMPLIANCE WITH LAWS - Tenant shall comply with all applicable laws, ordinances, regulations, and codes in its use and occupancy of the Premises, including environmental regulations and zoning ordinances. Landlord shall ensure that the Premises complies with applicable laws as to habitability and structural safety.

13. ASSIGNMENT AND SUBLETTING - Tenant shall not assign, transfer, mortgage, pledge, or encumber this Lease, nor sublet the Premises or any part thereof, without the prior written consent of Landlord, which shall not be unreasonably withheld. Any such unauthorized assignment or sublease shall be void and a default under this Lease.

14. ENTRY AND INSPECTION - Landlord shall have the right to enter the Premises during normal business hours upon at least twenty-four (24) hours' prior notice for purposes of inspection, maintenance, or showing the Premises to prospective purchasers, lenders, or future tenants. In the event of an emergency, Landlord may enter the Premises at any time without notice.

15. SURRENDER OF PREMISES - Upon termination of this Lease, Tenant shall surrender possession of the Premises in broom-clean condition, free of Tenant's personal property and debris, and in substantially the same condition as received, reasonable wear and tear excepted. Tenant shall repair any damage caused by the removal of personal property or fixtures.

16. NOTICES - All notices or demands required or permitted under this Lease shall be in writing and shall be deemed properly served when delivered by hand, certified mail (return receipt requested), or recognized overnight courier to the addresses specified below.

To Landlord:

Keith McGahan
PO Box 2568
Hickory, NC 28603
kmcgahan@algsenior.com

To Tenant:

Olivia Stewman
PO Box 255
Lake Lure, NC 28746
ostewman@townoflakelure.com

17. GOVERNING LAW AND VENUE - This Lease shall be governed by and construed in accordance with the laws of the State of North Carolina. Venue for any action arising out of this Lease shall lie exclusively in the state or federal courts located in Rutherford County, North Carolina.

18. WAIVER AND SEVERABILITY - The failure of either party to enforce any term or condition of this Lease shall not be deemed a waiver of that term or condition. If any provision of this Lease is held to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

19. DEFAULT AND REMEDIES

a) Tenant Default: Tenant shall be in default under this Lease if it:

- i.** Fails to pay any required charges under this Lease within fifteen (15) days after written notice of non-payment;
- ii.** Fails to perform or observe any other provision of this Lease and such failure continues for thirty (30) days after written notice;
- iii.** Vacates or abandons the Premises.

b) Landlord Default: Landlord shall be in default under this Lease if it fails to perform any of its obligations under this Lease within thirty (30) days of receiving written notice from Tenant, provided that if such default cannot reasonably be cured within such period, Landlord shall not be in default if it commences cure within such period and diligently pursues it to completion.

c) Remedies: Upon default, the non-defaulting party may terminate this Lease, seek damages, or pursue any other remedy available at law or in equity.

20. FORCE MAJEURE - Neither party shall be liable for failure to perform its obligations under this Lease due to acts of God, strikes, civil disturbances, pandemics, acts of terrorism, supply shortages, or any other causes beyond its reasonable control. Performance timelines shall be extended for a period equal to the delay caused by the force majeure event.

21. NON-APPROPRIATION - If Tenant's governing body does not appropriate funds sufficient to meet Tenant's obligations under this Lease in any fiscal year, Tenant may terminate this Lease at the end of the then-current fiscal year upon thirty (30) days' written notice, provided that Tenant shall remain liable for all rent and other charges accrued through the effective date of termination.

22. DISPUTE RESOLUTION - Prior to initiating legal proceedings, the parties agree to engage in non-binding mediation to attempt to resolve any disputes arising under this Lease. Mediation shall be conducted in Rutherford County, North Carolina, and the cost shall be shared equally. If mediation fails, either party may pursue all available legal or equitable remedies.

23. CAPITAL IMPROVEMENTS - Capital improvements, including but not limited to upgrades to HVAC systems, roof, plumbing, and major structural elements, shall be the responsibility of the Tenant. Tenant shall notify Landlord in writing before undertaking any capital improvements and obtain Landlord's prior written approval, which shall not be unreasonably withheld.

24. EMERGENCY REPAIRS AND CONTACTS - Each party shall provide 24/7 emergency contact information. In the event of an emergency that threatens safety or results in property damage, Tenant may take reasonable steps to mitigate such emergency, including temporary repairs. Landlord shall reimburse such expenses only if due to building defects or systems under Landlord's responsibility that arise from normal wear and tear, and not from Tenant's misuse or negligence.

25. EXTERIOR MAINTENANCE - Tenant shall be responsible for maintaining all exterior components of the Premises, including but not limited to the roof, gutters, exterior walls, sidewalks, parking lots, landscaping, snow removal, and any common areas. Tenant shall maintain all exterior areas in a clean, safe, and presentable condition at all times.

26. ADDITIONAL RENT; AND OPERATING EXPENSES - Tenant's obligations include reimbursement to Landlord for other expenses associated with the Premises, excluding utilities. All such amounts shall be deemed "Additional Rent" under this Lease. Any failure to pay such Additional Rent when due shall constitute a default under this Lease. Landlord shall provide copies of any tax or service invoices paid by Landlord, and Tenant shall reimburse such amounts in accordance with Section 26 of this Lease.

27. CONDITION OF PREMISES AND INSPECTION REPORT - Upon execution of this Lease, the parties shall conduct a joint inspection of the Premises and document its condition in a written inspection report signed by both parties. This report shall be used to assess the condition of the Premises upon surrender. Tenant acknowledges receipt of the Premises in its documented condition, and Landlord warrants that all systems are in working order as of the Commencement Date.

28. TENANT IMPROVEMENTS - Any improvements made by Tenant, including code-compliant or safety-related capital improvements, shall require Landlord's prior written approval. Any reimbursement, rent credit, or lease extension for such improvements shall be at Landlord's sole discretion and must be agreed to in writing prior to the installation of such improvements. All improvements shall become Landlord's property upon installation unless otherwise agreed in writing.

29. PUBLIC RECORDS AND CONFIDENTIALITY - Tenant acknowledges that it is subject to the North Carolina Public Records Law and that certain documents and communications relating to this Lease may be disclosed upon request. Landlord acknowledges that any proprietary or confidential information provided by it shall be clearly marked and may be withheld from disclosure to the extent permitted by law.

30. TITLE AND AUTHORITY WARRANTY - Landlord warrants that it is the legal owner of the Premises and has full authority to enter into this Lease. Landlord further certifies that the Premises are not subject to any encumbrances, covenants, or restrictions that would prevent Tenant's intended use.

31. ENVIRONMENTAL CONDITION - Landlord represents that, to the best of its actual knowledge, without duty of investigation, the Premises are free from hazardous substances and are in compliance with all applicable environmental laws as of the Commencement Date. If hazardous substances are discovered during the Lease term, Landlord shall be responsible for remediation only if such substances existed prior to the Commencement Date and were not caused by or exacerbated by Tenant's activities, agents, employees, contractors, or invitees.

32. ELECTRONIC SIGNATURES - This Lease may be executed in counterparts and signed electronically. The parties agree that electronic or digital signatures complying with the North Carolina Uniform Electronic Transactions Act shall have the same legal effect as original handwritten signatures.

33. NO IMPLIED WAIVER - Neither failure nor any delay on the part of any party to exercise any right, remedy, power, or privilege (a "Right") under this Lease shall operate as a waiver of that Right, nor shall any single or partial exercise of any Right preclude any other further exercise of the same or any other Right, nor shall any waiver of any Right with respect to any occurrence be construed as a waiver of such Right with respect to any other occurrence. No waiver of any Right shall be effective unless it is in writing and is signed by the party asserted to have granted such waiver.

34. ENTIRE AGREEMENT - This Lease embodies the entire agreement between the Parties with regard to its subject matter and supersedes all prior and contemporaneous understandings, whether verbal, written, or otherwise, between the Parties except as expressly set forth in this Lease.

35. COUNTERPARTS - This Lease may be executed by each party signing its own copy of the signature page. Together, all of these signature pages shall constitute the same instrument.

36. MEMORANDUM OF LEASE - Upon request by either party and at the requesting party's expense, the parties shall execute and record a Memorandum of Lease in the official real estate records of Rutherford County, North Carolina within thirty (30) days of such request, for the purpose of putting third parties on notice of this Lease. The Memorandum shall not disclose the financial terms of this Lease unless required by law.

IN WITNESS WHEREOF, the Parties are signing this Lease as of the Effective Date.

LANDLORD:

Rutherfordco, LLC,
a North Carolina limited liability company.

By: _____
Name: Charles E. Trefzger
Title: Authorized Representative

TENANT:

The Town of Lake Lure,
a North Carolina municipal corporation.

By: _____
Name:
Title:

LAKE LURE TOWN COUNCIL
AGENDA ITEM REQUEST FORM
Meeting Date: June 16, 2025

SUBJECT: Consider Approval of Amendment 2 to LaBella Task 23B – Sewer Replacement – MH 34 to 32 (*now 35B*)

AGENDA INFORMATION:

Item Number: III
Department: Public Services
Contact: Olivia Stewman, Town Manager
Presenter: Olivia Stewman, Town Manager

BRIEF SUMMARY:

LaBella previously engaged for the subject Task Order by virtue of a TO Proposal dated November 3, 2024, for Helene related emergency work that began on October 31. LaBella initially estimated that a budget of \$100,000 would be sufficient to complete the work. Subsequent changes, redesigns and scope additions resulted in an Amendment 1 dated December 16, 2024 adding \$140,000, which also addressed continued Helene-related work on the WWTP Influent Pump Station, which had previously been covered under Task 23A. Tasks 23, 23A, and 23B are being treated as a single effort related to Helene recovery. Helene-related (sewer-related) efforts have continued to morph to include support of the Town's FEMA consultant (ICF), SASS investigative work within the limits of the Lake, additional sewer design changes, rework on electrical drawings at the WWTP Influent Pump Station, and a much longer than expected period of construction support that is now expected to stretch into July 2025. The currently-budgeted funds are fully expended as of May 23rd.

The remaining efforts and expenses include the following:

- 1) Invoices from Telics for property acquisition assistance effort have totaled \$73,052 to date. LaBella anticipates the balance of Telics' budget (\$5,898) to be invoiced in the near future.
- 2) Outstanding Invoices (received after May 23) from Sweetwater for subsurface utility exploration include approximately \$6,000 for in-Lake sewer location, and additional related and already-requested work is expected to cost up to another \$15,000. This work is being performed primarily to aid in avoiding damage from Ashbriitt's subsurface debris removal operations.
- 3) The following remaining LaBella efforts:
 - a. Continue weekly inspection efforts and coordination with Morgan Corp as questions arise
 - b. Perform substantial and final inspections as necessary to certify completion to NCDEQ & NCDOT
 - c. Completion of record drawings, based on Morgan Corp markups ('as-builts')
 - d. Continue to support ICF with documentation and opinions regarding impacts of Helene

Notwithstanding further redirection or expansion of scope, LaBella does not foresee our remaining effort exceeding \$40,000. LaBella will continue to pass subconsultant costs related to Helene recovery thru to the Town with no markup. Therefore, LaBella is requesting an Amendment amount of \$67,000, to bring the current total for Helene sewer-damage related budget to \$367,100.

RECOMMENDED MOTION AND REQUESTED ACTIONS:

To approve Amendment 2 to LaBella Task 23B – Sewer Replacement – MH 34 to 32 (now 35B)

ATTACHMENTS:

Proposed Amendment 2 to LaBella Task 23B

STAFF'S COMMENTS AND RECOMMENDATIONS:

Staff recommends approval.

June 10, 2025

Olivia Stewman, Town Manager
Town of Lake Lure
2948 Memorial Highway
Lake Lure, NC 28746

**SUBJECT: Lake Lure On-Call Professional Services
AMENDMENT 2 to Task 23B – Sewer Replacement – MH 34 to 32 (now 35B)**

Dear Olivia:

We were previously engaged for the subject Task Order (TO) by virtue of a TO Proposal dated November 3, 2024, for emergency work that began on October 31. LaBella initially estimated that a budget of \$100,000 would be sufficient to complete the work. Subsequent changes, redesigns and scope additions resulted in an Amendment 1 dated December 16, 2024 adding \$140,000, which also addressed continued Helene-related work on the WWTP Influent Pump Station, which had previously been covered under Task 23A. (Tasks 23, 23A, and 23B are being treated as a single effort related to Helene recovery.)

Helene-related (sewer-related) efforts have continued to morph to include support of the Town's FEMA consultant (ICF), SASS investigative work within the limits of the Lake, additional sewer design changes, rework on electrical drawings at the WWTP Influent Pump Station, and a much longer than expected period of construction support that is now expected to stretch into July 2025. The currently-budgeted funds are fully expended as of May 23rd.

Remaining Scope

Specifically, remaining efforts and expenses include:

- 1) Invoices from Telics for property acquisition assistance effort have totaled \$73,052 to date. LaBella anticipates the balance of Telics' budget (\$5,898) to be invoiced in the near future.
- 2) Outstanding Invoices (received after May 23) from Sweetwater for subsurface utility exploration include approximately \$6,000 for in-Lake sewer location, and additional related and already-requested work is expected to cost up to another \$15,000. This work is being performed primarily to aid in avoiding damage from Ashbritt's dredging operations.
- 3) The following remaining LaBella efforts:
 - a. Continue weekly inspection efforts and coordination with Morgan Corp as questions arise
 - b. Perform substantial and final inspections as necessary to certify completion to NCDEQ & NCDOT
 - c. Completion of record drawings, based on Morgan Corp markups ('as-builts')
 - d. Continue to support ICF with documentation and opinions regarding impacts of Helene

Fee & Schedule

Notwithstanding further redirection or expansion of scope, LaBella does not foresee our remaining effort exceeding \$40,000. We will continue to pass subconsultant costs related to Helene recovery thru to the Town with no markup. We are therefore requesting an **Amendment amount of \$67,000**, to bring the current total for Helene sewer-damage-related budget to \$367,100, as outlined below.

| | |
|---|-----------------|
| Task 23 (WWPS Bypass System) | \$20,100 |
| Task 23A (WWPS Emergency Replacement) | \$40,000 |
| Task 23B (Sewer Replacement – MH 34 to 32) | \$100,000 |
| Amendment 1 (Task 23B) dated December 16, 2024 | \$140,000 |
| Total Helene sewer-damage-related – PREVIOUSLY AUTHORIZED | \$300,100 |
| | |
| (Remaining) – Telics | approx. \$6,000 |
| (Additional) – Sweetwater | est. \$21,000 |
| (Additional) – LaBella efforts | est. \$40,000 |
| Amendment Amount | \$67,000 |



Effort under these tasks will continue to be billed on a T&M basis. T&M charges will be based on the then-current Rate Schedule, and our proposed 2025 rates are attached.

Brian Houston, P.E. will continue to serve as LaBella's Program Manager for this contract, providing direction and oversight for other staff and subconsultants assigned to specific tasks under this contract. Other staff assigned to this contract shall have appropriate experience for the assigned task.

If this proposal is acceptable to the Town, please sign below to authorize the scope defined in this proposal and return one copy to us. We appreciate the opportunity to continue our relationship with the Town of Lake Lure. If you have any questions or need additional information, please call me directly at (704) 941-2110.

Sincerely,
LaBella Associates, P.C.

Brian Houston, P.E.
Water/Wastewater Market Leader

Town of Lake Lure, North Carolina

By: _____
Authorized Signature

Title _____

Date _____

c: Dean Lindsey

IV

ADJOURNMENT