



September 4, 2020

Mr. Shannon Baldwin
Town Manager
Town of Lake Lure
PO Box 255
Lake Lure, North Carolina 28746

Attn: Shannon Baldwin, Town Manager

RE: Administration Department: Process Improvement Project

Dear Mr. Baldwin:

WithersRavenel (CONSULTANT) is pleased to provide this Agreement for services to aid the Town of Lake Lure (CLIENT) with undertaking an operational assessment of its administrative department. This assessment will pick up where the 2015 Grey Rock study left off, and work to further evaluate and address known deficiencies outlined in the Grey Rock report. As the Town continues to grow, the demand to adapt and evolve its technology, infrastructure, customer service, processes, workforce and capacity has never been greater. While the Town has taken great strides already with continuous improvement by addressing some of the efficiency recommendations outlined in the initial study, the Town knows that additional growth, infrastructure challenges and personnel changes are on the horizon. Therefore, the Town's objective is to prepare now, so that it is well positioned when these changes occur. We understand that the Town is looking for innovative and cost-effective methods to meet the continuously changing demands in the Town, while also efficiently addressing citizens' needs in a timely fashion. The following proposal was made after careful consideration of all project related tasks that would be required to undertake the scope found in the attached AGREEMENT.

If you have questions or concerns about the attached AGREEMENT please do not hesitate to call me at the number listed below.

Sincerely,

WithersRavenel

Jessica Martin-Lane, MBA, MSIE
Vice President – Management & Transformation Services

84 Coxe Avenue, Suite 260 | Asheville, NC 2801
Office: 828.232.6109 | Mobile: 704.968.1903

Attachments:

Agreement for Professional Services
Exhibit I – Standard Terms and Conditions

Town of Lake Lure
Administration Department: Process Improvement Project
Agreement for Professional Services

A. PROJECT DESCRIPTION

The CONSULTANT will aid the CLIENT with further assessing and implementing the short- and long-term recommendations outlined in the Grey Rock 2015 Administration Operational Efficiency Assessment (PROJECT). As the Grey Rock report noted, to address some of the findings, it might take multiple steps and longer periods of time to achieve some of the changes. As such, this project will include a high-level evaluation of where the Town is 5 years after the initial study. We will assess what has/has not been completed and then work to further the completion progress. Specifically, we will take a closer look at evaluating the processes, procedures, job descriptions and supporting technology for the four (4) administrative positions that make up Town Administration department, which include:

- Finance Director
- Customer Services Specialist (collections and billing)
- HR Coordinator
- Administrative Specialist (reception, accounting support)

B. SCOPE OF SERVICES

Task 1: Project Planning / Management

- ▶ Conduct a project planning work session with the Town Manager to review project objectives, key assumptions, and project schedule.
- ▶ Assess progress at strategic milestones during the project.
- ▶ Prepare all meeting notes.

Task 2: Current State Assessment

- ▶ Collect and analyze relevant data to understand the CLIENT'S current administrative department organizational structure, and key team member roles and responsibilities.
- ▶ Collect and analyze any available current state process, policies and documentation that may be relevant to the PROJECT.
- ▶ Develop employee interview approach and schedule. Provide schedule to Town Manager for review and approval.
- ▶ Work with the Town to schedule interviews.
- ▶ Conduct interviews with Town employees (5 interviews will be conducted – Town Manager, Finance Director, Customer Services Specialist, HR Coordinator, Administrative Specialist). It is assumed that as many discussions as possible will be performed remotely.
- ▶ Review and assess the communication protocols and technological tools each person is leveraging.
- ▶ Assess any standard reporting requirements that may exist.

Task 3: Future State Development

- ▶ Document key findings from the current state assessment.
- ▶ For the four administrative positions outlined above, prepare current state documentation that includes:
 - ▶ List of job core functions
 - ▶ High level processes documentation
 - ▶ Updated job descriptions
 - ▶ List of technologies used
 - ▶ List of standard reports produced
- ▶ Complete industry research and benchmark Town current state against best practices.
- ▶ Review NCGS (if applicable) in programmatic areas that may be of concern to the Town Manager to ensure operational compliance.
- ▶ Conduct meeting to discuss findings and ideas, as well as brainstorm potential changes with the Town Manager.
- ▶ Draft a project memorandum that outlines findings and proposed recommendations for operational improvements, such as future state:
 - ▶ Organizational structure
 - ▶ Roles/responsibilities
 - ▶ Recommendations for process improvements
 - ▶ Software enhancement plan
 - ▶ Recommendations for outsourcing (if applicable)
- ▶ Provide memorandum to the Town Manager and make any necessary modifications to project memorandum (1 round of edits).

Task 4: Closeout

- ▶ Deliver final memorandum of findings to the CLIENT.
- ▶ Transition all project materials to CLIENT for document retention purposes.

C. ADDITIONAL SERVICES

Services that are not included in Section B or are specifically excluded from this AGREEMENT shall be considered Additional Services and will be charged separately according to the CONSULTANT's current rate/fee schedule.

Scope of work does not include any council meetings, accounting, legal, engineering, environmental, surveying, mapping or other services or expenses that are not specifically provided within.

The CONSULTANT will furnish or obtain from others Additional Services if requested in writing by the CLIENT and accepted by the CONSULTANT.

D. ASSUMPTIONS AND CLIENT RESPONSIBILITIES

During the performance of the CONSULTANT's services under this AGREEMENT, it is assumed that the CLIENT will:



WithersRavenel

Our People. Your Success.

- ▶ Provide all needed data, reports, information and supporting capital cost estimates in a timely fashion, which may be needed to complete the PROJECT.
- ▶ Provide timely feedback and response to inquiries, reviews and communications.
- ▶ Examine all information and other documents presented by the CONSULTANT and render in writing decisions pertaining thereto within a reasonable period so as not to delay the services of the CONSULTANT.
- ▶ Give prompt written notice to the CONSULTANT whenever the CLIENT observes or otherwise becomes aware of any defect in the PROJECT.
- ▶ Handle all matters requiring an attorney at law.

E. COMPENSATION FOR SERVICES

CONSULTANT proposes to provide the following Scope of Services to the CLIENT as outlined in this document for the fee not to exceed \$19,650 plus reimbursable expenses. The project cost would be assessed monthly based on progress, in accordance with the CONSULTANT's current schedule of fees and expenses. Our estimate does not include any provision for architectural or engineering services, cost estimates, legal services, or other services that are not specifically addressed in the above described scope of services. The project cost estimate assumes five (5) interviews and up to three (3) meetings with the Town Manager and zero (0) meetings with Town Council.

Any changes to the PROJECT requirements after CONSULTANT has begun work may require additional fees.

F. TIMELINE

Our work would begin immediately upon receipt of the CLIENT's written notification to proceed, with an estimated completion date of 150 days.



WithersRavenel

Our People. Your Success.

G. ACCEPTANCE

Receipt of an executed copy of this agreement will serve as the written agreement between the CONSULTANT and CLIENT for the services outlined.

Submitted by CONSULTANT:

WithersRavenel, Inc.
84 Coxe Avenue
Suite 260
Asheville, NC 28801

Jessica Martin-Lane

Authorized Signature

Jessica Martin-Lane
Printed Name

Chief Strategy Officer
Title

jmartinlane@withersravenel.com
Email Address

828.232.6109
Phone

Accepted by CLIENT:

Town of Lake Lure
PO Box 550
Lake Lure, NC 28658

Shannon Baldwin

Authorized Signature

Shannon Baldwin
Printed Name

Town Manager
Title

townmgr@townoflakelure.com
Email Address

828.625.9983
Phone

PREAUDIT STATEMENT: This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act (NC G.S. 159-28(a)).

Signature of Finance Officer:

Printed Name:

Date:

Sam A. Karr

Sam A. Karr

Sept 9, 2020

Exhibit I – Standard Terms and Conditions

EXHIBIT I

Standard Terms and Conditions

WithersRavenel, Inc.

The proposal submitted by WithersRavenel, INC. ("CONSULTANT") is subject to the following terms and conditions (collectively referred to as the "Agreement") and, by accepting the proposal, the services, or any part thereof, the CLIENT agrees and accepts the terms and conditions outlined below:

1. **Payment:**

- a) The CLIENT will pay CONSULTANT for services and expenses in accordance with periodic invoices to CLIENT and a final invoice upon completion of the services. Each invoice is due and payable in full upon presentation to CLIENT. Invoices are past due after 30 days. Past due amounts are subject to interest at a rate of one and one-half percent per month (18% per annum) on the outstanding balance from the date of the invoice.
- b) If the CLIENT fails to make payment to the CONSULTANT within 45 days after the transmittal of an invoice, the CONSULTANT may, after giving 7 days written notice to the CLIENT, suspend services under this Agreement until all amounts due hereunder are paid in full. If an invoice remains unpaid after 90 days from invoice date, the CONSULTANT may terminate the Agreement and/or initiate legal proceedings to collect the fees owed, plus other reasonable expenses of collection including attorney's fees.

2. **Notification of Breach or Default:** The CLIENT shall provide prompt written notice to the CONSULTANT if CLIENT becomes aware of any breach, error, omission or inconsistency arising out of CONSULTANT's work or any other alleged breach of contract by the CONSULTANT. The failure of CLIENT to provide such written notice within ten (10) days from the time CLIENT became aware of the fault, defect, error, omission, inconsistency or breach, shall constitute a waiver by CLIENT of any and all claims against the CONSULTANT arising out of such fault, defect, error, omission, inconsistency or breach. Emails shall be considered adequate written notice for purposes of this Agreement.

3. **Standard of Care:** CONSULTANT shall perform Agreement for CLIENT in a professional manner, using that degree of care and skill ordinarily exercised by and consistent with the standards of professionals providing the same services in the same or a similar locality as the project. THERE ARE NO OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE THAT WILL OR CAN ARISE OUT OF THE SERVICES PROVIDED BY CONSULTANT OR THIS AGREEMENT.

4. **Waiver of Consequential Damages/Limitation of Liability:** CLIENT agrees that CONSULTANT's aggregate liability for any and all claims that may be asserted by CLIENT is limited to \$50,000 or to the fee paid to CONSULTANT under this Agreement, whichever is greater. Both CLIENT and CONSULTANT hereby waive any right to pursue claims for consequential damages against one another, including any claims for lost profits.

5. **Representations of CLIENT:** CLIENT warrants and covenants that sufficient funds are available or will be available upon receipt of CONSULTANT's invoice to make payment in full for the services rendered by CONSULTANT, and that such payments shall be made in a timely fashion.

6. **Ownership of Instruments of Service:** All reports, plans, specifications, field data and notes and other documents, including all documents on electronic media, prepared by the CONSULTANT as instrument of service, shall remain the property of the CONSULTANT. The CONSULTANT shall retain all common law, statutory and other rights, including the copyright thereto. In the event of termination of this Agreement and upon full payment of fees owed to CONSULTANT,

CONSULTANT shall make available to CLIENT copies of all plans and specifications.

7. **Change Orders:** CONSULTANT will treat as a change order any written or oral order (including directions, instructions, interpretations or determinations) from CLIENT which request changes in the Agreement or CONSULTANT's scope of work. CONSULTANT will give CLIENT written notice within ten (10) days of a Change Order of any resulting increase in CONSULTANT's fees.

8. **Opinion of Cost/Cost Estimates:** Since the CONSULTANT has no control over the cost of labor, materials, equipment of services furnished by others, or over methods of determining prices, or over competitive bidding or market conditions, any and all opinions as to costs rendered hereunder, including but not limited to opinions as to the costs of construction and materials, shall be made on the basis of its experience and qualifications and represent its best judgment as an experienced and qualified professional familiar with the construction industry; but the CONSULTANT cannot and does not guarantee the proposals, bids or actual costs and will not vary significantly from opinions of probable costs prepared by it. If at any time the CLIENT wishes greater assurances as to the amount of any costs, he shall employ an independent cost estimator to make such determination.

9. **Assignment and Third Parties:** Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than the CLIENT and CONSULTANT, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of the CLIENT and the CONSULTANT and not for the benefit of any other party. Neither the CLIENT nor the CONSULTANT shall assign, sublet, or transfer any rights under or interests in this Agreement without the written consent of the other which shall not be unreasonably withheld. However, nothing contained herein shall prevent or restrict the CONSULTANT from employing independent subconsultants as the CONSULTANT may deem appropriate to assist in the performance of services hereunder.

10. **Project Site:** Should CLIENT not be owner of the project site, then CLIENT agrees to notify the site owner of the possibility of unavoidable alteration and damage to the site. CLIENT further agrees to indemnify, defend and hold CONSULTANT harmless against any claims by the CLIENT or persons having possession of the site through the Owner which are related to such alteration or damage.

11. **Access to Site:** CLIENT is responsible for providing legal and unencumbered access to site, including securing all necessary site access agreements or easements, to the extent necessary for the CONSULTANT to carry out his services.

12. **Survival:** All of CLIENT's obligations and liabilities, including but not limited to, its indemnification obligations and limitations, and CONSULTANT's rights and remedies with respect thereto, shall survive completion of the expiration or termination of this Agreement.

13. **Termination:** Either party may terminate the Agreement with or without cause upon ten (10) days advance written notice, if the other party has not cured or taken reasonable steps to cure the breach giving rise to termination within the ten (10) day notice period. If CLIENT terminates without cause or if CONSULTANT terminates for cause, CLIENT will pay CONSULTANT for all costs incurred, non-cancelable commitments, and fees earned to the date of termination and through demobilization, including any cancellation charges of vendors and subcontractors, as well as demobilization costs.

14. Severability: If any provision of this Agreement, or application thereof to any person or circumstance, is found to be invalid then such provision shall be modified if possible, to fulfill the intent of the parties as reflected in the original provision, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and each provision of this Agreement shall be valid and enforced to the fullest extent permitted by the law.

15. No Waiver: No waiver by either party of any default by the other party in the performance of any provision of this Agreement shall operate as or be construed as a waiver of any future default, whether like or difference in character.

16. Merger, Amendment: This Agreement constitutes the entire Agreement between the CONSULTANT and the CLIENT and all integrated negotiations, written and oral understandings between the parties are merged herein. This Agreement can be supplemented and/or amended only by a written document executed by both the CONSULTANT and the CLIENT

17. Unforeseen Occurrences: If, during the performance of services hereunder, any unforeseen hazardous substance, material, element of constituent or other unforeseen conditions or occurrences are encountered which, affects or may affect the services, the risk involved in providing the service, or the recommended scope of services, CONSULTANT will promptly notify CLIENT thereof. Subsequent to that notification, CONSULTANT may: (a) if practicable, in CONSULTANT's sole judgment and with approval of CLIENT, complete the original scope of services in accordance with the procedures originally intended in the Proposal; (b) Agree with CLIENT to modify the scope of services and the estimate of charges to include study of the previously unforeseen conditions or occurrences, such revision to be in writing and signed by the parties and incorporated herein; or (c) Terminate the services effective on the date of notification pursuant to the terms of the Agreement.

18. Force Majeure: Should completion of any portion of the Agreement be delayed for causes beyond the control of or without the fault or negligence of CONSULTANT, including force majeure, the reasonable time for performance shall be extended for a period at least equal to the delay and the parties shall mutually agree on the terms and conditions upon which Agreement may be continued. Force majeure includes but is not restricted to acts of God, acts or failures of governmental authorities, acts of CLIENT's contractors or agents, fire, floods, epidemics, riots, quarantine restrictions, strikes, civil insurrections, freight embargoes, and unusually severe weather.

19. Safety: CONSULTANT is not responsible for site safety or compliance with the Occupational Safety and Health Act of 1970 ("OSHA"). Job site safety remains the sole exclusive responsibility of CLIENT or CLIENT's contractors, except with respect to CONSULTANT's own employees. Likewise, CONSULTANT shall have no right to direct or stop the work of CLIENT's contractors, agents or employees.

20. Dispute Resolution/Arbitration: Any claim or other dispute arising out of or related to this Agreement shall be subject to Arbitration under the Federal Arbitration Act. Such claims and disputes shall first be subject to non-binding mediation, and if mediation is unsuccessful, shall be subject to Arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect. Any demand for Arbitration shall be filed in writing with the other party and with the American Arbitration Association.

21. Independent Contractor: In carrying out its obligations, CONSULTANT shall be acting at all times as an independent contractor and not an employee, agent, partner or joint venturer of CLIENT. CONSULTANT's work does not include any supervision or direction of the work of other contractors, their employees or agents, and CONSULTANT's presence shall in no way create any liability on behalf of CONSULTANT for failure of other contractors, their employees or agents to properly or correctly perform their work

22. Hazardous Substances: CLIENT agrees to advise CONSULTANT upon execution of this Agreement of any hazardous substances or any condition existing in, on or near the Project Site presenting a potential danger to human health, the environment or equipment. By virtue of entering into the Agreement or of providing services, CONSULTANT does not assume control of, or responsibility for, the Project Site or the person in charge of the Project Site or undertake responsibility for reporting to any federal, state or local public agencies, any conditions at the project site that may present a potential danger to the public, health, safety or environment except where required of CONSULTANT by law. In the event CONSULTANT encounters hazardous or toxic substances or contamination significantly beyond that originally represented by CLIENT, CONSULTANT may suspend or terminate the Agreement. CLIENT acknowledges that CONSULTANT has no responsibility as a generator, treater, storer, or disposer of hazardous or toxic substances found or identified at a site and CLIENT agrees to defend, indemnify, and hold harmless CONSULTANT, from any claim or liability, arising out of CONSULTANT's performance of work under the Agreement and made or brought against CONSULTANT for any actual or threatened environmental pollution or contamination except to the extent that CONSULTANT has negligently caused such pollution or contamination.

23. Choice of Law: The validity, interpretation, and performance of this Agreement shall be governed by and construed in accordance with the law of the State of North Carolina, excluding only its conflicts of laws principles.

24. Construction Services: If construction administration and review services are requested by the CLIENT, CLIENT agrees that such administration, review, or interpretation of construction work or documents by CONSULTANT shall not relieve any contractor from liability in regard to its duty to comply with the engineering standards for the Project, and shall not give rise to a claim against a contractor's failure to hold in accordance with the applicable plans, specifications or standards.

25. Field Representative: If CONSULTANT provides field services or construction observation services, the presence of the CONSULTANT's field personnel will only be for the purpose of providing observation and field testing of specific aspects of the Project. Should a contractor be involved in the Project, the CONSULTANT's responsibility does not include the supervision or direction of the actual work of any contractor, its employees or agents. All contractors should be so advised. Contractors should also be informed that neither the presence of the CONSULTANT's field representative nor the observation and testing by the CONSULTANT shall excuse contractor in any way for defects in contractor's work. It is agreed that the CONSULTANT will not be responsible for job or site safety on the Project and that the CONSULTANT does not have the right to stop the work of any contractor.

26. Submittals: CONSULTANT's review of shop drawings and other submittals is to determine conformity with the design concept only. Review of shop drawings and submittals does not include means, methods, techniques or procedures of construction, including but not limited to, safety requirements.