



August 15, 2024

Marcus Jones, County Engineer
Henderson County
213 1st Ave East
Hendersonville, NC 28792

RE: **Agreement for Professional Services
Henderson County – Berkeley Mills Sports Complex
Hendersonville, North Carolina
WithersRavenel Project No. 24-0763**

Dear Mr. Jones,

WithersRavenel, Inc. is pleased to provide this proposal to Henderson County for consulting services. The project encompasses 2 parcel(s) totaling approximately 38.61 acres and is described as Henderson County, NC PIN(s): 9660502160 & 9660502876.

We look forward to collaborating with you on this project. Please feel free to contact me with any questions and/or to discuss any aspect of the attached agreement. My contact information is below.

Sincerely,
WithersRavenel

Joe Boyd, P.E.
Senior Project Manager | Mixed-Use Team Lead, Wilmington
jboyd@withersravenel.com
Ph. 910-256-9277 | Direct. 910-509-6505

Henderson County Hendersonville, North Carolina Agreement for Professional Services

A. Project Description

This fee agreement is intended to provide the scope of services and associated fees to provide consulting services per request of Henderson County and formalize an agreement for the implementation and logistics for these services.

This agreement is based on the project site located at 47 Balfour Road in Henderson County, Hendersonville, North Carolina.

Listed below is a summary of several key aspects of the project based on our discussions, preliminary research, and Exhibit III. Refer to the Scope of Services and Additional Services/Exclusions for further detailed information.

- ▶ The subject property is zoned I-1 (Industrial) which is appropriate for the uses specified, therefore no rezoning efforts are anticipated with this project;
- ▶ The anticipated project breakdown is as follows: Four (4) soccer/multi-use fields, tennis courts, & a softball field with associated parking as shown on Exhibit III;
- ▶ This agreement assumes that the sports complex fields will be artificial turf;
- ▶ This agreement assumes that stadium lighting services are not included. These services would be provided by a lighting vendor (Musco or equivalent) if sports field lighting is desired;
- ▶ The project is anticipated to contain 2 internal public streets with connections to Balfour Road (SR-1508) which are maintained by the NCDOT:
 - Access to Balfour Road (SR-1508) will require a NCDOT Driveway Permit and NCDOT 3-party encroachment agreements which are included as tasks in this proposal;
 - A scoping meeting will be required with NCDOT and City of Hendersonville to determine the frontage improvements.
- ▶ The project is anticipated to be designed and constructed in 1 phase(s);
- ▶ A traffic study is not anticipated to be required and if required will be provided by Henderson County;
- ▶ Easements, Wetlands, & Buffer site limitations are not known at the time of the proposal and once known may change the Scope of Services provided in this proposal;
- ▶ Additional proposal(s) for Construction Phase services will be provided separately.

For the purposes of this agreement and any subsequent agreements the following references shall apply:

- ▶ Henderson County shall be known as the "Client"; WithersRavenel shall be known as the "Consultant"; The property and overall project shall be known as the "Project"; Hendersonville shall be known as "City"; Henderson County shall be known as "County/Client"; The executed agreement shall be known as the "Agreement".
- ▶ The following agency references also apply: North Carolina Department of Transportation shall be known as "NCDOT"; US Army Corps of Engineers shall be known as "USACE"; North Carolina Department of Environmental Quality shall be known as "NCDEQ".

B. Timeline for Services

WithersRavenel will begin work upon receipt of this executed Agreement and written notice to proceed from the Client. Estimated timeframe(s) for the basis of the services described in the Scope of Services are shown below.

- ▶ Due Diligence: Estimated One (1) Month total;
- ▶ Preliminary Site Plan Phase: Estimated One (1) Month total;
- ▶ Permitting and Final Site Plan Phase: Estimated Four (4) Months total.

The above estimated timeframe(s) may be impacted by, among other things:

- ▶ Timeliness and additional permit and/or plan reviews of review agencies;
- ▶ Timeliness and accuracy of information provided by the Client, Architect, and other Client consultants.

Below are the anticipated Hendersonville (“Authority Having Jurisdiction” and/or “AHJ”) review meetings which are critical to the project’s timeline:

- ▶ August 30th, 2024 – Pre-Planning Board Submittal:
 - WR to submit Preliminary Site Plan for an initial review prior to Planning Board Meeting;
 - AHJ to provide review comments electronically by September 3rd, 2024, end of day.
- ▶ September 6th, 2024 – Planning Board Meeting Submittal:
 - WR to submit revised Preliminary Site Plan based on September 3rd, 2024, AHJ comments;
 - October 10th, 2024 – Planning Board Meeting;
 - WR to proceed on Permitting and Final Site Plan Phase.

From the above and factoring in variability in the approval process, we estimate the total project timeframe for the Scope of Services to be 6 Months.

If available, opportunities to adjust these estimated timeframes can be discussed. Implementation of agreed-upon adjustments may result in adjustments to WithersRavenel fees.

Certain tasks, such as reviews and approvals, are performed by third parties, including governmental agencies, over which neither Client nor WithersRavenel have control or responsibility. As such, neither party is responsible for delays or the resulting cost impacts caused by third parties.

C. Scope of Services

WithersRavenel shall provide the services identified under each task below as its “Basic Services” under the Agreement:

Task 1. Due Diligence Phase

1.1. Due Diligence Project Management

WithersRavenel shall provide coordination and communication efforts for items relating to the Project that are not specifically covered in separate tasks outlined in the scope with specific items shown below:

- ▶ Kick off meeting with Client (estimated one (1) hour);
- ▶ Coordinate and attend pre-application/submittal meeting with City of Hendersonville;
- ▶ Coordination and correspondence with City of Hendersonville, Henderson County and other regulatory agencies that are not listed within the other tasks (estimated 1 hour per week);

- ▶ Attend coordination meetings with Client, and sub-consultants (estimated one (1) meeting at two (2) hours each, estimated meeting attendance pertains to general and civil site discussions only);
- ▶ Conference calls and emails with Client, sub-consultants, and/or builder or contractor, as required (estimated one (1) hour per week through the 1 months of due diligence);
- ▶ Manage internal project processes, communication, and resources during process through design as noted in the Scope of Services.

~Note – All meetings include one (1) WR attendee unless otherwise noted.

1.2. Concept Plans

WithersRavenel shall perform the following services associated with developing a Master Plan for the Project. This task includes:

- ▶ Review City of Hendersonville and Henderson County plans, zoning code and other information necessary to gain a basis for design for the concept plans;
- ▶ Create up to two (2) conceptual layouts (sketches) for review by Client. Concept plans will show road network, field layouts, parking, and buffers (similar in appearance to Exhibit III attached);
- ▶ Upon Client approval and review, the conceptual plan will be converted into CAD drawings for further development into the site plan.

Task 2. Preliminary Site Plan Phase

2.1. Preliminary Site Plan Project Management

WithersRavenel shall provide coordination and communication efforts for items relating to the Project that are not specifically covered in separate tasks outlined in the scope with specific items shown below:

- ▶ Kick off meeting with Client (estimated one (1) hour);
- ▶ Coordination and correspondence with City of Hendersonville, Henderson County and other regulatory agencies that are not listed within the other tasks (estimated one (1) hour per week);
- ▶ Coordinate and attend project meetings with City of Hendersonville or other regulatory agencies including formal project review meetings (estimated one (1) hour each with up to two (2) WithersRavenel Representatives present at the meetings);
- ▶ Attend coordination meetings with Client, and sub-consultants (estimated up to four (4) meetings at 1 hour each, estimated meeting attendance pertains to general and civil site discussions only);
- ▶ Conference calls and emails with Client, sub-consultants, and/or builder or contractor, as required (estimated 0.5 hour per week through the 1 month of PSP Phase);
- ▶ Coordination of submittals with City of Hendersonville (estimated up to two (2) total and one (1) resubmittal);
- ▶ Attendance at formal meetings with City of Hendersonville (estimated 1 meeting);
- ▶ Manage internal project processes, communication, and resources during process through design as noted in the Scope of Services.

~Note – All meetings include one (1) WR attendee unless otherwise noted.

2.2. Preliminary Site Plans

WithersRavenel will use the current client approved conceptual layout/due diligence from other tasks based on adjustments to accommodate Client's desired product size and configuration on an updated base sheet with latest survey information. This task includes:

- ▶ Preliminary design of roadways; parking; and water, sewer, and storm sewer utility stick layout;

- ▶ Preliminary storm water SCM layout(s) (calculation work done in other Tasks);
- ▶ Conceptual designation of roadway connection improvements;
- ▶ Preliminary Earthwork Takeoff (up to one (1) iterations);
- ▶ Open Space and Tree Conservation requirements;
- ▶ Create Preliminary Site Plan Sheets which will include:
 - Cover Sheet
 - Existing Conditions Plan
 - Site Plan Sheet
 - Utility Plan Sheet
 - Landscape Plan (work done in other Tasks)
- ▶ Prepare Review Committee Project Review Application;
- ▶ Schedule and attend a Review Committee meeting with the City of Hendersonville development review staff;
- ▶ Document/summarize meeting information.

2.3. Preliminary Stormwater Concept Plan

WithersRavenel will make recommendations as to type of stormwater control measure (SCM) required for compliance with current stormwater ordinances based on the anticipated development. WithersRavenel will estimate the size, footprint, and impact of up to four (4) SCM(s) based on existing conditions, anticipated impervious coverage, and drainage area for planning and layout purposes.

2.4. Landscape Plan

WithersRavenel will provide the following services as part of this task:

- ▶ WithersRavenel will prepare a Landscape Plan that meets the code requirements of the City of Hendersonville which will indicate location, width, and type of required perimeter buffers with associated calculations;
- ▶ Provide street tree planting plan;
- ▶ Design required parking lot landscaping for screening and shading of pavement;
- ▶ Design landscape screening of utilities, walls, and other mechanical features, as required;
- ▶ Planting of SCM features, as required;
- ▶ Turf and groundcover selections;
- ▶ Provide plant quantities and size in accordance with City of Hendersonville requirements;
- ▶ Provide planting details for new plant material installation;
- ▶ Provide landscape technical specifications for the project;
- ▶ Assumes up to two (2) rounds of review with revisions based on written comments for approval.

2.5. Parking Lot and Street Lighting Plan

WithersRavenel will provide the following services as part of this task:

- ▶ Proposed parking lot and street lighting plan in accordance with City of Hendersonville requirements;
- ▶ Coordinate final Photometric plan with Duke Energy;

- ▶ Lighting design services include fixture selection/location and development of a photometric plan exhibit.
- ▶ Sports field lighting is excluded from this scope of work. Client will need to hire a lighting vendor (aka Musco or equivalent) if sports field lighting is desired.

Task 3. Permitting and Final Site Plan Phase

3.1. Permitting and Final Site Plan Project Management

WithersRavenel shall provide coordination and communication efforts for items relating to the Project that are not specifically covered in separate tasks outlined in the scope with specific items shown below:

- ▶ Kick off meeting with Client (estimated up to one (1) hour);
- ▶ Coordinate and attend pre-application/submittal meeting with City of Hendersonville;
- ▶ Coordination and correspondence with City of Hendersonville, Henderson County and other regulatory agencies that are not listed within the other tasks (estimated up to two (2) hours per week). This does not include any direct construction communications which is included typically in the Construction Administration Task;
- ▶ Coordinate and attend project meetings with City of Hendersonville or other regulatory agencies including formal project review meetings (estimated up to two (2) hours each with 1 WithersRavenel Representative present at the meetings);
- ▶ Attend coordination meetings with Client, and sub-consultants (estimated up to eight (8) meeting at 1 hour each, estimated meeting attendance pertains to general and civil site discussions only);
- ▶ Conference calls and emails with Client, sub-consultants, and/or builder or contractor, as required (estimated 0.5 hour per week through the 4 months of permitting and final site plan phase);
- ▶ Coordination of submittals with City of Hendersonville (estimated up to two (2) total and up to one (1) resubmittal);
- ▶ Coordination of reviews with regulatory agencies: Henderson County, Hendersonville and NCDOT (estimated up to two (2) reviews each);
- ▶ Manage internal project processes, communication, and resources during process through design as noted in the Scope of Services.

~Note – All meetings include one (1) WR attendee unless otherwise noted.

3.2. Final Site Plans / Construction Drawings

WithersRavenel will develop a drawing submittal to the City of Hendersonville as part of their site plan approval process. WithersRavenel will represent the project in the staff review process, including application forms and required checklists, and Project Data Sheet. The following drawings will be provided as part of this task, unless otherwise noted:

- ▶ Cover Sheet;
- ▶ Existing Conditions Plan;
- ▶ Site Plan;
- ▶ Signs and Pavement Marking Plan;
- ▶ Grading and Drainage Plan;
- ▶ Utility Plan;
- ▶ Stormwater Management Plan;

- ▶ Tree Conservation Plan;
- ▶ Landscape Plan (work completed in other task);
- ▶ Lighting Plan;
- ▶ Standard Detail Sheets.

This task estimates up to two (2) total submittals, including one (1) re-submittals. Additional responses will be billed hourly in accordance with Exhibit II.

Submittals reflecting design changes requested by the client, owner, or other consultants are subject to additional fees.

3.3. Final Stormwater Analysis

After incorporating the Stormwater Concept Plan from Task 2.3, WithersRavenel will utilize the Site Plan to prepare a stormwater management plan per City of Hendersonville specifications as well as prepare construction drawings for up to four (4) SCM(s) on-site. This task includes:

- ▶ Stormwater Management Plan with SCM design based on proposed layout;
- ▶ Peak Attenuation Analysis;
- ▶ Design up to four (4) SCM(s) and provide construction drawings for each;
- ▶ Attend up to two (2) meeting(s) with City of Hendersonville staff;
- ▶ Provide technical assistance as required for the preparation of the maintenance security.

After this Sub-Task has commenced, any revisions to the Site Plan which require redesign of the SCM(s) will require additional fees.

3.4. Final Common Areas Hardscape and Site Furnishings Detailing

WithersRavenel will provide the following services as part of this task:

- ▶ Evaluate common areas relative to site program and anticipated vehicle access requirements;
- ▶ Prepare Conceptual Hardscape Plans that include preliminary layout of pavements and materials, furnishings, and other site features. Plans will include preliminary sections and elevations to communicate design intent;
- ▶ Provide detailing of specialty pavement areas including material, color, and scoring detailing;
- ▶ Provide joint scoring plans to coordinate with furnishings locations and the installation of structures into the pavement to prevent pavement cracking;
- ▶ Develop construction drawings based on approved conceptual hardscape plan;
- ▶ Refine layout in CAD format;
- ▶ Finalize selection of materials and furnishings;
- ▶ Finalize Hardscape layout design, dimensioning, and installation details;
- ▶ Includes up to two (2) revisions based on written comments provided by the Owner.

3.5. Permitting

WithersRavenel will prepare applications and supporting documents for submittal to the City of Hendersonville in addition to required State Agencies, in pursuit of approval for the following permits and sureties:

- ▶ Hendersonville Stormwater Permit;
- ▶ Hendersonville Water Permit;

- ▶ Hendersonville Sewer Permit;
- ▶ NCDEQ Grading Permit (Sedimentation & Erosion Control).

This task estimates up to two (2) total submittals, including one (1) re-submittal. Additional responses will be subject to additional fees.

3.6. Zoning Compliance Permit

WithersRavenel will prepare applications and supporting documents for submittal to the City of Hendersonville in in pursuit of approval for the following permits and sureties:

- ▶ Final Site Plan Approval.

This task estimates two (2) total submittals, including one (1) re-submittal. Additional responses will be subject to additional fees.

Task 4. Bid Phase

4.1. Bid Advertisement and Assistance

Upon receipt of written authorization from the Client, the Consultant will perform the bidding services that include the following sub-tasks. This Task assumes two bidding cycles and a reevaluation of design for value engineering based on the first bidding cycle. Based on the schedule, if a 2nd bidding cycle is required it is expected that a special AHJ meeting will be required and coordinated by the Client. Additional and/or multiple bids shall be considered Additional Services.

- ▶ Bid Advertisement
 - Assist the Client in advertising the Project for competitive formal bids. This will include preparing the "Advertisement" for use by the Client for advertising in local newspapers, plan rooms, and the Client's website;
 - Provide Client electronic copies of construction documents for advertisement and bidding.
- ▶ Pre-Bid Meeting
 - Conduct a Pre-Bid Meeting In-Person with Client, NCDWI, prospective bidders, and material suppliers. Consultant will prepare the agenda, take notes, and prepare a summary report of the meeting for distribution;
 - Manage the project addendums. After the Pre-Bid meeting, the Consultant will issue an Addendum with the Pre-Bid Meeting Summary. During the bidding phase, Consultant will issue additional addenda as deemed necessary by Consultant and/or the Client.
- ▶ Bid Opening and Tabulation
 - Attend the bid opening (Virtual and In-Person), prepare the bid tabulation documents, open bids and read into record as well as discuss the bid results with the Client;
 - Tabulate the bids and issue an opinion to the Client as to the lowest responsive responsible bidder for the project.
- ▶ Value Engineering
 - In the event that the market volatility impacts the project cost beyond what can be reasonably be predicted, the Consultant will perform a value engineering process to reduce the project scope as to not impact the DWI score and stay within approved budget.

Deliverables:

- ▶ Advertisement

- ▶ Construction Documents
- ▶ Pre-Bid Meeting and Addendums
- ▶ Bid Opening
- ▶ Bid Tabulation and Recommendation of Award

Task 5. Funding Administration – ARPA

Upon receipt of written authorization from the Client, Consultant will provide the following funding administration tasks:

5.1. General Administration and Financial Management

- Attend the project kick-off meeting with NCDWI to review ARPA funding requirements;
- Set up Dual Filing System (hardcopy and digital) for the Client's funded project, to be kept and maintained at the Client's location. Work with Client project designees to ensure dual files stay current and comprehensive;
- Assist the Client in completing NCDWI paperwork including state assurances, progress reports, monitoring report forms, and others as required by NCDWI for the project;
- Assist the Client in requisition payment requests and compile necessary supporting documentation for the Client to review, execute, and submit to NCDWI;
- Act as liaison between the Client and NCDWI;
- Provide ongoing technical assistance regarding ARPA regulations and NCDWI requirements;
- Assist the Client in close-out procedures and paperwork.

5.2. Project Implementation

- Provide oversight and guidance of procurement procedures in accordance with DWI requirements and applicable federal and state regulations;
- Assist the Client in complying with regulations regarding property acquisitions and easements, if necessary;
- Conduct coordination sessions with the Consultant, Construction Administrator and Construction Observer, Client, NCDWI, and Construction Contractor;
- Provide quality control and quality assurance reviews with the Consultant and Construction Administrator in the creation of bid documents, solicitation of bids, pre-bid meeting, review of bids, assembly of construction contracts, and pre-construction meeting to comply with state and federal regulations, including minority business recruitment;
- Support the Client to complete necessary construction-related public notifications;
- Work with the Client to ensure compliance with all NCDWI guidelines during design, bidding, and construction;
- Confirm debarment clearance for all contractors for the Client to verify;
- Participate in the pre-bid and pre-construction meetings by presenting ARPA guidelines and discussing what will be expected from NCDWI during the course of the project;
- Assist in processing construction Contractor payment requests approved by the Construction Administrator and Client, to be submitted to NCDWI.

Deliverables

- ▶ Kick-Off Meeting, Pre-Bid Meeting and Pre-Construction Meeting
- ▶ Assist in Required NCDWI Paperwork/Compliance and Pay Applications

- ▶ Coordination Sessions
- ▶ Debarment Clearance Confirmation

D. Exclusions/Additional Services

Services that are not included in Section C or are specifically excluded from this Agreement (see below) shall be considered Additional Services if those services can be performed by WithersRavenel and its agents if requested in writing by the Client and accepted by WithersRavenel. The following list is not all inclusive and the Scope of Services defines the services to be provided by WithersRavenel for this project. Additional services shall be paid by the Client in accordance with the Fee & Expense Schedule outlined in Exhibit II. The exclusions are described below but are not limited to the following:

Design Services

- ▶ Off-site improvements;
- ▶ Offsite utility or road improvements;
- ▶ Pump Station design and permitting;
- ▶ Forcemain design and permitting;
- ▶ Reclaim waterline design;
- ▶ LEED certification coordination;
- ▶ Pavement design;
- ▶ Structural/foundation design and certification;
- ▶ Greenway bridge design & permitting;
- ▶ Boardwalk design & permitting;
- ▶ Signal design;
- ▶ Dumpster enclosure details;
- ▶ Equipment Selections/Design;
- ▶ Site Lighting is limited to fixture selection for the parking lot only; electrical engineering not included;
- ▶ Sports field Lighting

Documents/Drawings

- ▶ Record (As-Built) Plans;

Environmental Services

- ▶ SHPO Historic Resources Assessment;
- ▶ Endangered Species Assessment;
- ▶ Wetland Delineations;
- ▶ USACE Jurisdictional Determination;
- ▶ NCDWR/Local Municipality Buffer Determination;
- ▶ Phase I & II ESA's;

Geomatics Services

- ▶ Annexation Plats;
- ▶ Boundary/Topographic Surveys;
- ▶ Tree survey/cover report by Registered Forester;
- ▶ Subsurface Utility Engineering (SUE);
- ▶ Surveys for off-site improvements;
- ▶ Platting services;
- ▶ Plot Plans;

- ▶ ALTA Surveys;
- ▶ GIS mapping services;
- ▶ Construction staking;
- ▶ Building staking;
- ▶ As-built (record drawing) surveys;
- ▶ Easements, Easement/ROW Plats;

Landscape Architecture Services

- ▶ Irrigation design;
- ▶ Enhanced landscape design beyond minimum requirements;
- ▶ Entrance/signage feature design;
- ▶ Water feature and/or pool design;
- ▶ Renderings;
- ▶ Park improvements;
- ▶ Public art design or commissioning;
- ▶ Entry/monument design

Offsite/Specialty

- ▶ Development agreements;
- ▶ Homeowner association documents;
- ▶ Utility allocation agreements;
- ▶ Preparation of electronic file suitable for GPS machine control;
- ▶ Expert witnesses;

Permitting Services

- ▶ Building permits and associated work;
- ▶ 401/404 permitting;
- ▶ Floodplain Development permit;
- ▶ NCDOT permitting;
- ▶ Sign permitting;

Planning/Studies

- ▶ Land Planning services other than listed above;
- ▶ Entitlement services;
- ▶ Variance and Quasi-Judicial processes;
- ▶ Off-site Sewer Analysis;
- ▶ Traffic Impact Analysis;
- ▶ Signalization Studies;



- ▶ Hydrant flow determination and hydraulic analyses;
- ▶ Existing sewer hydraulic analyses;
- ▶ County or regulatory approvals;
- ▶ Special & Conditional Use Permits;

Project Management

- ▶ Additional Meetings/Site Visits;
- ▶ Adjacent property owner discussions;
- ▶ Neighborhood meetings;
- ▶ Attendance at formal regulatory meetings unless noted above;

Services by Others

- ▶ Geotechnical services;
- ▶ Architectural and MEP services;
- ▶ Structural Services;
- ▶ Arborist/Registered Forester Services;

Services During Construction

- ▶ Engineer's Opinion of Costs;
- ▶ Pay application reviews;
- ▶ Change order reviews;
- ▶ Shop Drawing review;
- ▶ RFI's during bidding;
- ▶ Construction administration;
- ▶ Construction management;
- ▶ Dry utility coordination/design;
- ▶ NPDES monitoring/reporting;
- ▶ Loan draw certifications;
- ▶ Bonds and Bond Estimates;

- ▶ Record drawings/as-builts;
- ▶ Engineer Certifications;
- ▶ O&M/SWMP Manuals;

Stormwater Services

- ▶ Stormwater Pollution Prevention Plan (SPPP) update or revision;
- ▶ Secondary containment designs;
- ▶ SCM design;
- ▶ Culvert design;
- ▶ Dam inspection, engineering, or analysis;
- ▶ Dam breach analysis;
- ▶ Flood studies, floodplain permitting or coordination with FEMA (such as for a LOMR-F, CLOMR/LOMR, etc.);
- ▶ Soil investigations (such as Seasonal high-water table determinations);
- ▶ Soil Media Mix Testing and Gradation Certification;
- ▶ Downstream impact analysis;
- ▶ Nutrient calculations;
- ▶ Peak flow analysis;
- ▶ SCM conversion.

General

- ▶ All plan submittal, review, or permitting fees;
- ▶ Any work previously provided in other agreements;
- ▶ Any other services not specifically listed within Section C.

E. Client Responsibilities

The following items will be provided by the Client and WithersRavenel will rely upon the accuracy and completeness of this information:

▶ General:

- Provide representative for communications and decisions;
- Coordination and designation of a primary contact for architect, contractor, and other consultants engaged by the Client;
- Preferred media platforms for communications with the Client;
- Provide in writing, any information as to Client's requirements for design;
- Provide any information needed to complete the Project not specifically addressed in the Scope of Services;
- Provide all available information pertinent to the Project, including any GIS information, reports, maps, drawings, and any other data relative to the Project;
- Examine all agreements, reports, sketches, estimates 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 Consultant whenever Client observes or otherwise becomes aware of any defect in the Project or the services of Consultant;
- Attend County or City meetings as required/needed;
- Provide access to property for Consultant and subconsultants;
- Discussions/negotiations with adjacent landowners;
- Acquire all off-site utility and/or construction easements required for this Project;
- Manage and coordinate the work of any subconsultants/subcontractors that are not directly subcontracted through the Consultant;
- All submittal, review, or permitting fees associated with the Project;
- Any legal representation requiring an attorney at law.

F. Compensation for Services

WithersRavenel proposes to provide the Basic Services outlined in Section C on a lump sum or hourly basis with budgets as shown below plus reimbursable expenses in accordance with Exhibit II. The amounts set forth below have been determined based on the nature, scope and complexity of the Project as represented in the information provided to WithersRavenel by Client prior to submittal of this agreement; subsequent changes thereto may result in additional fees.

Task No.	Task Name	Fee
Task 1	Due Diligence Phase	\$135,000
1.1	Due Diligence Project Management	
1.2	Concept Plans	
Task 2	Preliminary Site Plan Phase	\$187,500
2.1	Preliminary Site Plan Project Management	
2.2	Preliminary Site Plans	
2.3	Preliminary Stormwater Concept Plan	
2.4	Landscape Plan	
2.5	Parking Lot and Street Lighting Plan	
Task 3	Permitting and Final Site Plan Phase	\$262,500
3.1	Permitting and Final Site Plan Project Management	
3.2	Final Site Plans / Construction Drawings	
3.3	Final Stormwater Analysis	
3.4	Final Common Areas Hardscape and Site Furnishings Detailing	
3.5	Permitting	
3.6	Zoning Compliance Permit	
Task 4	Bid Phase	\$120,000
4.1	Bid Advertisement and Assistance	
Task 5	Funding Administration - ARPA	\$45,000
5.1	Funding Administration Assistance Phase	
5.2	Project Implementation	
Total		\$750,000

(Hourly) Denotes hourly tasks. The fee budgets represented with hourly tasks are good faith estimates of what can be reasonably expected during the performance of this contract.

Invoices will be issued monthly, based on the percentage of completion for each lump sum task and the hourly rate for WithersRavenel personnel in accordance with Exhibit II for hourly tasks, as accomplished during the billing period. Payment is due upon receipt of invoice.

The above fees are based on the estimated timelines noted in Section B. Any adjustments to those timelines may result in additional fees.

Consultant may alter the distribution of compensation between individual Tasks noted herein to be consistent with services rendered but shall not exceed the total Lump Sum amount unless approved in writing by the Client.

The attached Exhibit II, Fee & Expense Schedule, is based on Consultant's rates as of the date of this agreement and may be subject to change for hourly tasks and any Additional Services that occur after any adjustments to such rates go into effect.

G. Acceptance

This agreement is valid 60 days from the date it is transmitted to Client. Receipt of an executed copy of this agreement will serve as the written Agreement between WithersRavenel and Henderson County. All Exhibits identified after the signature blocks below, including the Standard Terms and Conditions (Exhibit I) and the Fee & Expense Schedule (Exhibit II), are incorporated herein and are integral parts of the Agreement.

OFFERED BY:

WithersRavenel



August 15, 2024

Signature Date

Joe Boyd, P.E.

Name

Senior Project Manager | Mixed-Use
Team Lead

Title

ACCEPTED BY:

Henderson County

Signature Date

Marcus Jones

Name

County Engineer

Title



August 15, 2024

Signature Date

Kyle Freehart, P.E.

Name

Director of Mixed-Use

Title

Attachments:

Exhibit I- Standard Terms and Conditions

Exhibit II- Fee & Expense Schedule

Exhibit III- Scoping Map

Exhibit I

Standard Terms and Conditions

The proposal submitted by WithersRavenel, INC. ("CONSULTANT") is subject to the following terms and conditions, which form an integral part of the Agreement. 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. If Consultant initiates legal proceedings to collect the fees owed, Consultant shall also be entitled to recover the 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 services or any other alleged breach of contract or negligence 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 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 its services 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 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.

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 proposed change order any written or oral order (including directions, instructions, interpretations, or determinations) from CLIENT which requests changes in the Agreement or CONSULTANT's Scope of Services. If CONSULTANT accepts the proposed

change order, CONSULTANT will give CLIENT written notice within ten (10) days of acceptance 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 or 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 CONSULTANT'S experience and qualifications and represent its reasonable 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 will not vary significantly from opinions of probable costs prepared by it. If at any time the CLIENT wishes assurances as to the amount of any costs, CLIENT 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 harmless CONSULTANT against any claims by the CLIENT, the owner of the site, or persons having possession of the site 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 its services.

12. Survival: All of CLIENT's obligations and liabilities, including but not limited to, its indemnification obligations and limitations of liability, and CONSULTANT's rights and remedies with respect thereto, shall survive completion, 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 applicable 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 different in character.

16. Merger, Amendment: This Agreement constitutes the entire Agreement between the CONSULTANT and the CLIENT and all negotiations, written and oral understandings between the parties are integrated and 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, pandemics, 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 first be subject to non-binding mediation in accordance with the then-current Construction Industry Mediation Procedures of the American Arbitration Association ("AAA"). If mediation is unsuccessful, such claim or other dispute shall be subject to arbitration in accordance with the AAA's then-current Construction Industry Arbitration Rules. Any demand for arbitration shall be filed in writing with the other party and with the American Arbitration Association. CLIENT agrees to the inclusion in such arbitration (whether by initial filing, by joinder or by consolidation) of any other parties and of any other claims arising out of or relating to the Project or to the transaction or occurrence giving rise to the claim or other dispute between CLIENT and CONSULTANT.

21. Independent Contractor: In carrying out its obligations, CONSULTANT shall always be acting as an independent contractor and not an employee, agent, partner, or joint venture 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 perform their work properly or correctly.

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 applicable 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. Except to the extent that CONSULTANT has negligently caused such pollution or contamination, CLIENT agrees to defend, indemnify, and hold harmless CONSULTANT, from any claim or liability, arising out of CONSULTANT's performance of services under the Agreement and made or brought against CONSULTANT for any actual or threatened environmental pollution or contamination if the fault (as defined in N.C.G.S. 22B-1(f)(7)) of CLIENT or its derivative parties (as defined in N.C.G.S. 22B-1(f)(3)) is a proximate cause of such claim or liability.

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 applicable plans, specifications, and standards for the Project, and shall not give rise to a claim against CONSULTANT for contractor's failure to perform 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.

Exhibit II

Fee & Expense Schedule

Description	Rate
Engineering & Planning	
Construction Project Professional	\$ 155
Construction Manager I	\$ 160
Construction Manager II	\$ 175
Senior Construction Manager	\$ 200
CAD Technician I	\$ 110
CAD Technician II	\$ 125
Senior CAD Technician	\$ 150
Designer I	\$ 140
Designer II	\$ 160
Senior Designer	\$ 180
Landscape Architect I	\$ 160
Landscape Architect II	\$ 185
Landscape Architect III	\$ 205
Senior Landscape Architect	\$ 225
Landscape Designer I	\$ 140
Landscape Designer II	\$ 150
Planning Technician	\$ 120
Planner I	\$ 130
Planner II	\$ 150
Planner III	\$ 175
Senior Planner	\$ 185
Project Engineer I	\$ 175
Project Engineer II	\$ 185
Project Engineer III	\$ 205
Senior Project Engineer	\$ 225
Assistant Project Manager	\$ 185
Project Manager	\$ 205
Senior Project Manager	\$ 225
Resident Project Representative I	\$ 105
Resident Project Representative II	\$ 125
Resident Project Representative III	\$ 140
Senior Resident Project Representative	\$ 150
Staff Professional I	\$ 95
Staff Professional II	\$ 150
Staff Professional III	\$ 160
Staff Professional IV	\$ 200
Senior Staff Professional	\$ 210
Senior Technical Consultant	\$ 260
Client Experience Manager	\$ 240
Director	\$ 245
Principal	\$ 270
Zoning Specialist	\$ 350
Project Coordinators	
Project Coordinator I	\$ 100
Project Coordinator II	\$ 120
Project Coordinator III	\$ 130
Senior Project Coordinator	\$ 140
Lead Project Coordinator	\$ 150

Description	Rate
Funding & Asset Management	
GIS Senior Specialist	\$ 175
GIS Specialist	\$ 155
GIS Survey Technician I	\$ 80
GIS Survey Technician II	\$ 105
GIS Survey Technician III	\$ 125
GIS Survey Lead	\$ 140
GIS Technician	\$ 100
GIS Analyst I	\$ 125
GIS Analyst II	\$ 140
GIS Project Manager	\$ 175
GIS Manager	\$ 225
F&AM Assistant Project Manager	\$ 170
Intern I	\$ 70
Intern II	\$ 90
F&AM Implementation Specialist	\$ 155
F&AM Project Consultant I	\$ 125
F&AM Project Consultant II	\$ 135
F&AM Project Consultant III	\$ 140
F&AM Project Consultant IV	\$ 145
F&AM Senior Project Consultant I	\$ 155
F&AM Senior Project Consultant II	\$ 160
F&AM Project Manager	\$ 175
F&AM Principal	\$ 270
F&AM Director	\$ 245
F&AM Staff Professional I	\$ 75
F&AM Staff Professional II	\$ 120
F&AM Staff Professional III	\$ 160
F&AM Staff Professional IV	\$ 200
F&AM Senior Project Manager	\$ 225
F&AM Senior Technical Consultant	\$ 255
Geomatics	
Geomatics CAD I	\$ 105
Geomatics CAD II	\$ 125
Geomatics CAD III	\$ 140
Geomatics Project Manager I	\$ 175
Geomatics Project Manager II	\$ 185
Geomatics Project Manager III	\$ 215
Geomatics Project Professional I	\$ 155
Geomatics Project Professional II	\$ 180
Geomatics Principal	\$ 250
Geomatics Remote Sensing Crew I	\$ 225
Geomatics Remote Sensing Crew II	\$ 315
Geomatics Survey Crew I	\$ 160
Geomatics Survey Crew II (2 Man)	\$ 195
Geomatics Survey Crew III (3 Man)	\$ 240
Geomatics Senior Manager	\$ 225
Geomatics Survey Tech I	\$ 65
Geomatics Survey Tech II	\$ 95
Geomatics Survey Tech III	\$ 125
Geomatics Survey Tech IV	\$ 135
Geomatics Sr. Technical Consultant	\$ 225
Geomatics SUE Crew 1	\$ 195
Geomatics SUE Crew 2	\$ 265

Description	Rate
Environmental	
Environmental Technician I	\$ 85
Environmental Technician II	\$ 100
Environmental Technician III	\$ 105
Senior Environmental Technician	\$ 120
Environmental Project Geologist I	\$ 155
Environmental Project Geologist II	\$ 170
Environmental Project Geologist III	\$ 195
Environmental Senior Project Geologist	\$ 215
Environmental Assistant Project Manager	\$ 170
Environmental Project Manager	\$ 195
Environmental Senior Project Manager	\$ 215
Environmental Director	\$ 245
Environmental Project Engineer I	\$ 155
Environmental Project Engineer II	\$ 170
Environmental Project Engineer III	\$ 195
Environmental Senior Project Engineer	\$ 215
Environmental Principal	\$ 270
Environmental Project Scientist I	\$ 155
Environmental Project Scientist II	\$ 170
Environmental Project Scientist III	\$ 195
Senior Environmental Project Scientist	\$ 215
Environmental Scientist I	\$ 110
Environmental Scientist II	\$ 135
Environmental Scientist III	\$ 145
Environmental Geologist I	\$ 110
Environmental Geologist II	\$ 135
Environmental Geologist III	\$ 145
Environmental Professional I	\$ 110
Environmental Professional II	\$ 135
Environmental Professional III	\$ 145
Environmental Senior Technical Consultant	\$ 240
Administrative	
Administrative Assistant	\$ 70
Administrative Assistant I	\$ 85
Administrative Assistant II	\$ 95
Administrative Assistant III	\$ 105
Marketing Administration I	\$ 95
Marketing Administration II	\$ 125
Director of Marketing	\$ 155
Office Administration	\$ 75
Office Administrator I	\$ 125
Office Administrator II	\$ 130
Office Administrator III	\$ 135
Expenses	
Bond Prints (Per Sheet)	\$ 1.75
Mylar Prints (Per Sheet)	\$ 11.00
Mileage	Per IRS
Delivery - Project Specific (Distance & Priority)	
Subcontractor Fees (Markup)	1.15
Expenses / Reprod. / Permits (Markup)	1.15
Other	
Expert Witness	\$ 400

