

**Minutes
Spruce Pine Town Council
Monday, June 24, 2024**

A meeting of the Town Council was held on June 24, 2024. Present were Mayor Phillip Hise and Council Members Rocky Buchanan, Wayne Peight, Larry McKinney, and Jackie Rensink. Staff in attendance included Darlene Butler, Brooke Peterson, and Kelly Johnson. Others attended, including Town Attorney Chad Donnahoo and Mariel Williams.

CALL TO ORDER

Mayor Phillip Hise called the regular meeting to order at 5:30 PM. Jackie Rensink gave the invocation. Larry McKinney led the Pledge of Allegiance.

APPROVAL OF AGENDA

Larry McKinney moved to approve the agenda as presented. Wayne Peight seconded the motion, which carried unanimously.

APPROVAL OF MINUTES

Larry McKinney moved to approve the minutes of the regular meeting of June 10, 2024. Rocky Buchanan seconded the motion, which carried unanimously.

Larry McKinney moved to approve the minutes of the budget public hearing of June 10, 2024. Wayne Peight seconded the motion, which carried unanimously.

CLOSED SESSION

Mayor Hise requested a motion to enter into closed session, citing NCGS 143-318.11 (a) (3) – To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege. Jackie Rensink moved to enter into closed session. Larry McKinney seconded the motion, which carried unanimously. Kelly Johnson and Mariel Williams departed the board room.

RETURN TO OPEN SESSION

Council Member Rocky Buchanan moved to resume open session. Wayne Peight seconded that motion, which carried unanimously. No action was taken by the council during closed session. Mariel Williams returned to the board room.

PUBLIC COMMENT

There were no public comments.

ACTION AGENDA

- Jackie Rensink made a motion to adopt The Withers Ravenel Stormwater Assessment and Planning Project Contract. Larry McKinney seconded the motion, which carried unanimously. Said report is incorporated by reference and attached to these minutes.
- Town Manager Darlene Butler read through the Revised Town Code Chapter 13 – Noises for the first reading. Said report is incorporated by reference and attached to these minutes.
- Town Manager Darlene Butler read through the Revised Town Code Chapter 14 – Nuisances for the first reading. Said report is incorporated by reference and attached to these minutes.
- Town Manager Darlene Butler read through the Revised Town Code Chapter 12 – Article VI Removal of Abandoned, Nuisance, and Junked Vehicles for the first reading. Said report is incorporated by reference and attached to these minutes.
- Darlene Butler noted that all revised town codes will be available online soon. Also, the second reading will be at the next town council meeting and will be open to public comment.

TOWN MANAGER

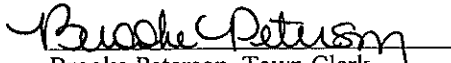
- ✓ Town Manager Darlene Butler did not have anything further to discuss at this time.

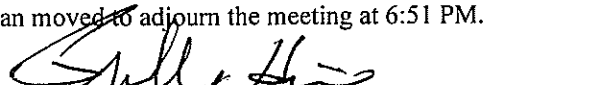
MAYOR/COUNCIL REQUESTS / COMMENTS

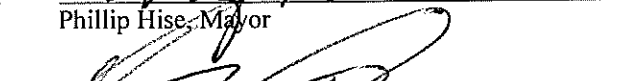
- Council Member Wayne Peight expressed his concern for the ongoing brown water issue in the downtown area after the leak that occurred. He has spoken with Public Works Director, Travis Phillips.

ADJOURNMENT

With no further business, Rocky Buchanan moved to adjourn the meeting at 6:51 PM.

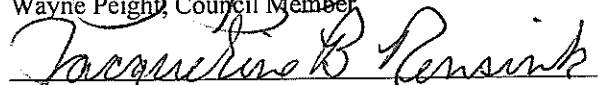

Brooke Peterson, Town Clerk


Phillip Hise, Mayor


Larry McKinney, Mayor Pro Tem


Rocky Buchanan, Council Member


Wayne Peight, Council Member


Jackie Rensink, Council Member

**RESOLUTION ADOPTING THE WITHERSRAVENEL
STORMWATER ASSESSMENT AND PLANNING PROJECT CONTRACT**

NOW COMES the Town Council ("Council"), at a duly called public meeting with a quorum established, and hereby adopts this *Resolution Adopting the WithersRavenel Stormwater Assessment and Planning Project Contract*.

WITNESSETH:

WHEREAS, pursuant to N.C.G.S. § 143-64.31, the Town of Spruce Pine solicited requests for qualifications for the Stormwater Assessment and Planning Project ("Project");

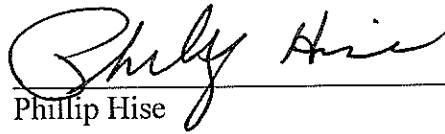
WHEREAS, WithersRavenel ("Contractor") was selected to perform the consulting services to provide limited condition assessment and stormwater management planning services related to the Project; and

WHEREAS, Contractor presented its proposal for services for the Project ("Proposal"), attached as Exhibit A. The Proposal has been reviewed by the Town Manager and Town Attorney and Contractor has, to their satisfaction, addressed all questions and incorporated all suggested revisions to the Proposal.

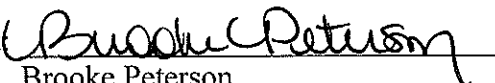
NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL that: (1) the Proposal attached hereto as Exhibit A be approved; and (2) that the Town Manager be authorized to enter and execute the Proposal on behalf of the Council.

READ AND APPROVED this 24th day of June 2024.

TOWN OF SPRUCE PINE



Phillip Hise
Mayor

Attest 

Brooke Peterson
Town Clerk



Town of Spruce Pine Stormwater Assessment and Planning Project

A. Project Description

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

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

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

1. Town of Spruce Pine shall be known as the "Client or Town";
2. WithersRavenel shall be known as the "Consultant";
3. The overall project shall be known as the "Project";
4. The executed agreement shall be known as the "Agreement";
5. The Capital Improvement Plan shall be known as "CIP";
6. NC Department of Environmental Quality shall be known as "DEQ";
7. Division of Water Infrastructure shall be known as "DWI";
8. The American Rescue Plan Act shall be known as "ARPA";
9. Geographic Information System shall be known as "GIS";
10. High Country Council of Government shall be known as "HCCOG".

The Client is a recipient of a Stormwater Planning grant for the Fall 2022 Funding Cycle (DWI Project Number SRP-SW-ARP-0041). LASII grants are authorized by NC Session Law 2021-180. The purpose of the grants is to encourage local governments to improve or create infrastructure for controlling stormwater quantity and quality.

This fee agreement is intended to provide the scope of services and associated fees to provide consulting services per request of the Town of Spruce Pine to provide limited condition assessment and stormwater management planning services for the Town's stormwater assets.

As part of the overall project, but outside this Scope of Services, the High Country Council of Government is developing an asset inventory for the stormwater infrastructure within the Town. This inventory data will be used throughout this Scope of Services.

Phase 1 will utilize the new stormwater inventory to perform a condition assessment and build a detailed hydrologic and hydraulic model of the designated Town subbasins. This model will then be used to identify flood risk and determine conceptual projects to reduce flooding. This Phase includes public outreach.

Phase 2 will utilize the findings of Phase 1 to develop a CIP for the Town and to generate a final report. This Phase includes presenting to the Town Council. Phase 2 services are anticipated to commence after Phase 1.



B. Timeline for Services

WithersRavenel will begin work upon receipt of this executed Task Order 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.

Milestone	Time Frame
Phase 1	Twelve (12) Months
Phase 2	Four (4) Months
DWI Draft Report Review	Six (6) Months
Council Presentation and Project Close-out	Two (2) Months
Total:	Twenty-four (24) Months

1. The timeline can be adjusted to ensure the proper completion of work by the end of 2026. All work must be completed and grant closed out by the end of 2026 per the existing grant requirements funding this project.
 - a. It is presumed that the Town will provide timely notice to proceed to consultant.
 - b. We understand that the funding agency requested to review/approve the scope of services as a condition of the funding agreement. If the notice to proceed is delayed until receipt of approval from the funding agency, the scope of services might need to be adjusted to complete the project within the funding timeline.
2. The Consultant estimates the total project timeframe for the Scope of Services to be twenty-four (24) months. A more detailed project schedule will be developed with the Client.
3. The above estimated timeframe(s) may be impacted by, among other things:
 - a. Timeliness of review agencies;
 - b. Timeliness and accuracy of information provided by the Client and other Client consultants.



C. Scope of Services

WithersRavenel shall provide the services identified under each task below as its "Basic Services" under the Task Order:

Task 1. Project Management

1.1. Project Management

Consultant shall provide the following services as part of this task:

- A. Project Management Services following best practices to meet objectives, quality standards, schedule, and budget. Consultant shall provide services for the overall management and administration of the Project including any internal and external coordination and general administration duties.
- B. Consultant shall identify key team members, schedule and attend a project kick-off meeting to introduce the Team to the Client, establish the Project communication channels between the Client and Consultant. Consultant will also obtain from Client necessary background information including flooding history, maps, stormwater concerns on Town's properties and facilities, and locations of known problem areas.
- C. Consultant will keep the Client advised of the progress of the project activities. This includes scheduling and attending monthly meetings/workshops and consultations with the Client and submitting monthly progress report.
- D. Maintain monthly project progress reports, meeting minutes as well as any electronic files of project for the Client and the Division of Water Infrastructure (DWI).
- E. Consultant will manage project processes, communication, and resources. Consultant will keep the Client regularly informed of progress, providing oversight of the production tasks, and managing the monthly billing and invoicing for the project.
- F. Funding Administration services are excluded from this Scope of Services and are being performed by the High Country Council of Government (HCCOG). Consultant will provide HCCOG monthly progress meeting notes to the HCCOG.

Phase 1: Stormwater Assessment

The Stormwater Assessment Phase will be based on the stormwater inventory data collected by the HCCOG as part of this project, but outside this Scope of Services. It is assumed that the HCCOG will provide a GIS geodatabase (GDB) to the Consultant that contains an existing conditions stormwater inventory throughout Town limits. This GDB will be referred to as the "stormwater inventory GDB." It is assumed that the provided data will provide the necessary asset information to complete the tasks outlined below.

Task 2. Public Input Survey

Part of the process of watershed characterization and planning will include public input to identify issues of concern. It will also be an opportunity to identify flooding concerns and to garner citizen engagement and support. Consultant shall provide the following services as part of this task:

- A. Prepare a public input survey with Client. Consultant will create the online version of the survey and provide the Client links to access the survey. Notification and advertisement of residents about the survey will be conducted by the Town. It is assumed that the survey will be open for resident input for a total of 2 weeks.



- B. Consultant will prepare and submit a summary of public input to the Client.

Task 3. Limited Condition Assessment

3.1. Condition Assessment

- A. Consultant will review the stormwater inventory GDB provided by the HCCOG. It is assumed that the HCCOG data will include attribute fields that identify the size, material, and invert elevations of the stormwater conveyance system as well as maintenance issues, structural issues, structural condition, and condition descriptions for the assets.
- B. Consultant will develop a scoring and prioritization system with the Client for addressing the stormwater assets' structural and maintenance issues identified in the field by the HCCOG. It is assumed prioritization will be based on a likelihood of failure score and a consequence of failure score. Asset attributes and condition will inform a likelihood of failure score. Factors used to determine a consequence of failure score will be based on publicly available data.
- C. Consultant will field verify the condition of 16 stormwater features. Field verification of condition will be done at the same time as the field visits for Task 4.3. Structures selected for additional field verification will be discussed with the Client before the field work. Survey of structures, CCTV, and stream assessments are not included in this Scope of Services.
- D. Consultant will create a prioritized list of maintenance and structural issues for Client. Consultant will add fields to the stormwater inventory GDB as necessary to add the resulting score to the assets' attributes.
- E. Consultant will summarize these evaluations in a technical memorandum outlining the process and resulting scores. Content from the memorandum will be included in the Stormwater Management Plan report provided under Task 6.

3.2. Task Deliverables

- A. Consultant shall provide a Limited Condition Assessment memorandum.
- B. Consultant shall provide a digital copy of the revised stormwater inventory GDB that includes resulting scores within the attributes.

Task 4. Existing Conditions Hydrologic and Hydraulic Modeling

An Existing Conditions Model will be developed to evaluate capacity of existing stormwater facilities and infrastructure and will be used as the basis to identify conceptual projects for the Capital Improvement Plan.

4.1. Identification of Modeled Systems

- A. For budgetary purposes, up to 40,000 LF of Town system will be selected for detailed capacity analysis. Analyzed systems will be identified based on watershed reconnaissance, historical drainage complaints, and input from the Town. The Consultant shall present the systems for consideration to the Town for approval before capacity analysis is performed. It is assumed that the selected network will be evaluated at a planning level scale and will not include every structure and pipe within the study areas. It is assumed that a minimum drainage area or minimum pipe size may be established and applied to determine what portion of the network will be modeled within the selected study areas. The Consultant will work collaboratively with the Town when selecting areas for detailed capacity analysis.



- B. Client and Consultant will work together to establish the Level of Service (LOS) performance standard that the system will be evaluated against.

4.2. Engineering Field Investigation

- A. Consultant will field-verify select drainage area limits, manning's n-values and visually inspect the primary and secondary system drainage areas, as necessary.
- B. Stream assessments are not included in this Scope of Services.

4.3. Existing Conditions Hydrologic and Hydraulic Modeling

- A. The Consultant will prepare an existing conditions hydrologic and hydraulic (H&H) model of the areas selected in *Task 4.1*. This shall be called the Existing Conditions Model.
- B. It is assumed that the Consultant will prepare the Existing Conditions Model using Storm Water Management Model (SWMM) software. Final model selection will be made with the Client after *Task 4.1*.
- C. The consultant shall evaluate the three existing conditions storm events. It is assumed to be the 10-, 25-, and 50-year, 24-hour storm events utilizing NOAA Atlas 14 rainfall depths using SCS Type II rainfall distribution; however, storm events are subject to change based on assets in the modeled limits and LOS established in *Task 4.1*.
- D. Hydrologic parameters calculated will depend on selected model but are anticipated to include: subwatershed area, existing land use, curve number (based on land use/zoning), flow paths, NRCS soil types, significant detention storage areas, and channel routing characteristics.
- E. The Consultant will develop hydraulic network for system drainage features.
- F. It is assumed that the publicly available LiDAR data within the study limits accurately represents existing topographic conditions.
- G. Hydraulic network will be based on the existing stormwater inventory GDB. No additional data collection is included for this task.
- H. Where impoundments along the system include significant storage, which is expected to impact system performance, the Consultant will develop hydraulic parameters based on available data to include the impoundment within the hydraulic model. No hydrographic survey of the impoundment, nor survey of the control structures are included in this scope.
- I. The Consultant shall set downstream boundary conditions using the following approach unless Client approves of an alternative approach:
 - a. Consultant shall evaluate if coincidental peaks are likely at the confluence point based on the ratio of relative watershed sizes and FEMA guidance. If applicable, boundary conditions shall be set to account for coincident peaks.
 - b. If coincident peaks are not applicable, Consultant shall use the normal depth boundary condition, with downstream slope based best available data.
 - c. For systems that terminate at an impoundment area, the downstream boundary condition shall be selected from available information, which may include FEMA study, information collected from NCDEMLR Dam Safety section, field survey data, design documents, or other available data.
 - d. For closed system where the above methods are not applicable, the downstream boundary condition shall be set at the crown of the pipe.



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- J. This task does not include water quality calculations or sediment transport calculations.
- K. Consultant will provide limited calibration/validation of the existing conditions model using available information such as: historic rainfall, post-storm aerial orthoimagery, high-water marks, and citizen feedback. At most, two (2) calibration/validation rainfall events scenario will be run. The calibration/validation rainfall event will be selected with input from the Client.
- L. Consultant will prepare inundation maps depicting extents of flooding for each modeled storm event.
- M. Consultant will discuss the results of the existing conditions capacity analysis completed in this task with the Client. Discussion will include the review of the inundation maps and review of existing system performance compared to the desired LOS set in *Task 4.1*. Areas in the Existing Conditions Model that do not meet the LOS will be identified and called a Potential Area of Concern (PAOC). PAOCs will be candidates for conceptual project development in *Task 5*. As part of *Task 6*, the Consultant will make a general recommendation to the Client regarding potential future action that can be taken to address the remaining PAOCs that are not selected for project development in *Task 5*.

4.4. Task Deliverables

- A. The Consultant shall provide a digital copy of the models to the Town as part of the project final deliverables. Models shall include all supporting data necessary to run them and duplicate results reflected in the Stormwater Management Plan report provided under *Task 6*.
- B. Inundation results maps and a summary of capacity analysis results will be included in the Stormwater Management Plan report provided under *Task 6*.
- C. The Consultant shall provide the Client inundation result rasters for the modeled storm events. Locations of PAOCs shall be provided to the Client as a point or polygon shapefile.



Task 5. Conceptual Projects

Consultant and Client will develop planning level conceptual stormwater improvement options for *select areas of concern* to meet the established level of service. These options will focus on flood risk reduction, replacing aging/failing infrastructure, green stormwater devices, and nature-based solutions to address both water quantity and water quality concerns, as applicable.

5.1. Area of Concern Selection

- A. Consultant will identify up to five (5) Areas of Concern (AOC) from the PAOCs identified in *Task 4.3* for conceptual project development.

5.2. Alternatives Model Development

- A. After identifying Areas of Concern, Consultant and Client will develop planning level conceptual stormwater improvement options.
- B. Consultant shall provide the following services as part of this task:
 1. Consultant will develop a future conditions land use layer and will update hydrology parameters to account for future land use.
 2. Revise Existing Conditions Model with conceptual improvements to create an Alternatives Future Growth Model.





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3. Alternatives Future Growth Model will evaluate the selected level of service storm events utilizing NOAA Atlas 14 rainfall depths using SCS Type II rainfall distribution and future land use conditions to size proposed concepts for future growth conditions.
 4. After concepts have been developed, Consultant will create an Alternatives Model that includes the proposed concept run with the selected level of service storm events utilizing NOAA Atlas 14 rainfall depths using SCS Type II rainfall distribution and existing land use conditions.
 5. Prepare concept level exhibits of the proposed improvements.
 6. Prepare alternative conditions inundation maps depicting extents of flooding for each modeled storm event. Alternative conditions inundation maps will utilize results from the Alternatives Model with existing hydrology for more direct comparison to existing conditions inundation limits. Technical documentation of concept development using the Alternatives Future Growth Model will be included in the Stormwater Management Plan report provided under *Task 6*.
- C. Potential for downstream impacts will be documented for each modeled alternative. Further analysis of downstream impacts might be needed during the final design of a project.
- D. It is assumed that at a maximum of two (2) concept alternatives will be developed for each Area of Concern
- E. Prepare planning level engineer's construction, design and permitting cost opinions with line items for each conceptual project.
- F. Development of Construction Drawings are excluded from this Scope of Services.
- G. Nutrient Load Reduction Calculations are excluded from this Scope of Services.
- H. Conceptual stormwater improvements and cost opinions will be provided to the Client for one (1) review cycle before proceeding with the development of the Stormwater Management Plan

5.3. Task Deliverables

- A. The Consultant shall provide a digital copy of the models to the Town as part of the project final deliverables. Models shall include all supporting data necessary to run them and duplicate results reflected in the Stormwater Management Plan report provided under *Task 6*.
- B. Inundation results maps, schematic level exhibits of proposed improvements, and a summary of results will be included in the Stormwater Management Plan report provided under *Task 6*.
- C. The Consultant shall provide the Client inundation result rasters for the modeled storm events. Locations of AOCs shall be provided to the Client as a point or polygon shapefile.

Phase 2: Stormwater Management Plan

Task 6. Capital Improvement Plan and Management Plan Report

6.1. Capital Improvement Plan

- A. Consultant shall prepare a 10-year Capital Improvement Plan (CIP) from information gathered and analyzed in previous tasks. CIP projects will include:



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1. Prioritization of projects according to impact, effectiveness, and equity. Prioritization methodology will be developed by the Consultant and Client.
2. Maintenance plan based on the age and condition of the stormwater infrastructure and the results of *Task 3*.
3. Report the preliminary cost estimates developed under *Task 6* for improvements for the AOCs.
4. Assessment of financial needs and preliminary cost estimates for repairs, replacements, and capital improvement projects.

6.2. Stormwater Management Plan

- A. The final deliverable will be a comprehensive report detailing the methodology, findings, and recommendations from each of the above tasks into a stormwater management plan.
- B. Consultant will prepare a document that will contain the information developed and noted as part of the above tasks. The Consultant will include model results and exhibits developed as part of the above tasks.
- C. Consultant will include the CIP developed under *Task 6.1*.
- D. Summaries for conceptual stormwater improvement projects to include:
 1. Summary of identified issues and potential solutions.
 2. Rough lump sum order of magnitude cost opinion for purpose of planning and prioritization.
 3. Concept level exhibits of proposed improvements.
 4. Itemized order of magnitude cost opinions.
- E. Report to include a summary of any Consultant recommendations for the Client made as part of the above tasks.
- F. Meet up to two (2) times with Client to review draft management plan.
- G. Revise draft report up to two (2) times to incorporate comments from Client.

6.3. Task Deliverables

- A. Capital Improvement Plan
- B. Final Stormwater Management Plan Report

Task 7. Town Council Presentation

- A. Consultant will prepare presentation and present study report methodology, findings, and recommendations to Spruce Pine Town Council for adoption. It is assumed that the Consultant will attend one (1) Town Council meeting.



D. Exclusions/Additional Services

Services that are not included in Section D 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 for by the Client in accordance with the Fee & Expense Schedule outlined in Exhibit I. The exclusions are described below but are not limited to the following:

- A. Survey of Stormwater Assets
- B. Funding Administration Services
- C. Detailed design drawings for the evaluated alternatives
- D. Permitting services for the evaluated alternatives
- E. Topographic/boundary survey for the areas of concern
- F. Delineation of jurisdictional areas

E. Client Responsibilities

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

- A. Provide representative for communications and decisions;
- B. Coordination and designation of a primary contact for architect, contractor, and other consultants engaged by the Client;
- C. Preferred media platforms for communications with the Client;
- D. Provide in writing, any information as to Client's requirements for the Project;
- E. Provide any information needed to complete the Project not specifically addressed in the Scope of Services;
- F. Provide all available information pertinent to the Project, including any GIS information, reports, maps, drawings, and any other data relative to the Project;
- G. 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;
- H. Give prompt written notice to Consultant whenever Client observes or otherwise becomes aware of any defect in the Project or the services of Consultant;
- I. Provide access to property for Consultant and subconsultants;
- J. 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 with budgets as shown below (which includes all estimated reimbursable expenses associated with the Basic Services). 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 proposal; subsequent changes thereto may result in additional fees, but only as authorized by an agreed upon change order executed by Client.

Task No.	Task Name	Fee
Task 1	Project Management	\$20,500
Phase 1	Stormwater Assessment	
Task 2	Public Participation	\$5,300
Task 3	Physical Condition Assessment	\$27,700
Task 4	Existing Conditions H&H Modeling	\$72,800
Task 5	Conceptual Projects	\$49,100
Phase 2	Stormwater Management Plan	
Task 6	Capital Improvement Plan and Management Plan Report	\$24,000
Task 7	Town Council Presentation	\$5,600
Total		\$205,000

1. Invoices will be issued monthly, based on the percentage of completion for each lump sum task, as accomplished during the billing period. Payment is due upon receipt of invoice.
2. The above fees are based on the estimated timelines noted in the Timeline for Services. Adjustments to the estimated timelines by a period greater than twenty percent (20%) may result in additional fees agreed upon by an authorized change order executed by Client. Changes to the estimated timelines substantially caused by Consultant shall not result in additional fees owed to Consultant.
3. 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.
4. 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.

Payment

The Client will pay the 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.



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G. Acceptance

This proposal 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 Town of Spruce Pine. 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

ACCEPTED BY:

Town of Spruce Pine

DocuSigned by:
Amanda Hollingsworth 6/19/2024
Signature Date
Amanda Hollingsworth, PE, CFM
Name
Project Manager
Title

Signature Date
Darlene Butler
Name
Town Manager
Title

DocuSigned by:
Dori Sabeh 6/20/2024
Signature Date
Dori Sabeh, PE, GISP
Name
Director of Stormwater
Title

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:

Attachments:

Exhibit I – Standard Terms and Conditions
Exhibit II - Fee & Expense Schedule
Attachment A – ARPA Federal Contract Provisions
Attachment B – Debarment Status Certification
Attachment C – E-Verify Affidavit



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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. 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. **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.

5. **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.

6. **Change Orders:** In the event that CLIENT requests a change in the Agreement or CONSULTANT's Scope of Services, prior to any work being completed, CONSULTANT shall prepare a written change order detailing the change in the Agreement or Scope of Services and the resulting increase, if any, in CONSULTANT's fee. The change order shall not be effective until executed by an authorized representative for CONSULTANT and CLIENT. CONSULTANT shall not be entitled to a fee adjustment until the written change order is executed by the Parties. The CLIENT and CONSULTANT mutually agree to expedite any Change Order requests and agree on any changes to the schedule.

7. **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.

8. **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.

9. **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.

10. **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.

11. **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.

12. **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.

13. **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.

14. **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



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construed as a waiver of any future default, whether like or different in character.

15. 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.

16. 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.

17. 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.

18. 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.

19. Dispute Resolution: Any claim or other dispute arising out of or related to this Agreement shall first be subject to informal, pre-litigation mediation. CONSULTANT and CLIENT shall each be responsible for one-half of the mediator's total fee, unless otherwise agreed to by the Parties. The mediation shall take place in Mitchell County, North Carolina or as mutually agreed by the Parties. If the mediation is unsuccessful, such claim or other dispute may be adjudicated in a court of competent jurisdiction in Mitchell County, North Carolina.

20. 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.

21. Hazardous Substances: Only to the extent that CLIENT has such independent knowledge, CLIENT agrees to advise CONSULTANT upon execution of this Agreement of any known hazardous substances or any known condition existing in, on or near the Project Site..." Revise the last sentence as follows: "Except to the extent that CONSULTANT has negligently caused such pollution or contamination, and only as permitted by law and only as to the extent of application insurance, if any, CLIENT agrees to defend, indemnify..." Add the following new last sentence: "Nothing herein is intended to be a contractual waiver of governmental immunity by CLIENT and CLIENT shall only defend, indemnify and hold harmless CONSULTANT to the extent of applicable insurance coverage, if any."

22. 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.

23. 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.

24. 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.

25. 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.

26. Insurance: As a condition precedent to this Agreement, prior to commencing with any work under this Agreement, the CONSULTANT shall provide proof of insurance for the required policies and coverages: (i) Workers' Compensation: CONSULTANT shall provide and maintain Workers' Compensation insurance, as required by the laws of North Carolina, covering all of CONSULTANT's employees who are engaged in any work under the Agreement. If any work is subcontracted, CONSULTANT shall require the subcontractor to provide the same coverage of any of its employees engaged in any work under the Agreement; (ii) Commercial General Liability ("CGL"): CONSULTANT shall provide CGL insurance at a level of at least one million dollars (\$1,000,000) each occurrence and two million (\$2,000,000) annual aggregate; and (iii) Automotive Liability: CONSULTANT shall provide Automotive Liability insurance to include liability coverage covering all owned, hired and non-owned vehicles used within North Carolina in connection with the Agreement. The minimum combined single limit shall be, at a minimum, one million dollars (\$1,000,000) single limit and \$1,000,000 annual aggregate. CONSULTANT will submit to CLIENT copies of Certificates of Insurance on the latest approved North Carolina Department of Insurance Acord Form 25 by an insurer authorized to do business in North Carolina by the North Carolina Department of Insurance and rated A- (minus) or better by A.M. Best Company.



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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

Effective January 1, 2024 - Schedule is subject to change

ATTACHMENT A

Contract Provisions

- 1) *Equal Employment Opportunity*. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

- 2) *Debarment and Suspension (Executive Orders 12549 and 12689)*—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

- 3) *Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)*—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

- 4) *Access to Records and Record Retainage* – In general, all official project records and documents must be maintained during the operation of this project and for a period of three years following closeout, in compliance with 24 CFR §570.490. The North Carolina Department of Environment and Natural Resources, the North Carolina Department of Treasurer, U.S. Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Planning Agency which are pertinent to the execution of this Agreement, for the purpose of making audits, examination, excerpts, and transcriptions in compliance with the above Rule.

- 5) *Conflict of Interest (2 CFR Part §200.318 General Procurement Standards) - Interest of Members, Officers, or Employees of the Planning Agency, Members of the Local Government, or Other Public Officials* - no member, officer, or employee of the Planning Agency, or its agents; no member of the governing body of the locality in which the program is situated; and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his tenure or for one year thereafter, shall have any financial interest, either direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under this Agreement. Immediate family members of said members, officers, employees, and officials are similarly barred from having any financial interest

in the program. The Planning Agency shall incorporate, or cause to be incorporated, in all such contracts or subcontracts, a provision prohibiting such interest pursuant to the purpose of this section.

- 6) *Civil Rights Act of 1964 – Title VI* – The Planning Agency shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. §§ 2000d *et seq.*), as implemented by the Department of the Treasury's Title VI regulations 31 C.F.R. Part 22, which herein incorporated by the reference and made a part of this Contract. Title VI also provides protections to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. §§ 2000d *et seq.*, as implemented by the Department of Treasury's Title VI regulations 31 C.F.R. Part 22, and herein incorporated with this Contract.
- 7) *Nondiscrimination Clause* - No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds available under the Housing and Community Development Act of 1974, Section 109.
- 8) *Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 301 et seq.)* – No qualified person shall, on the basis of race, color, religion, national origin, sex, familial status, or disability, be subjected to discrimination in housing.
- 9) *Section 504, Rehabilitation Act of 1973, as amended* - No qualified disabled person shall, on the basis of disability be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance.
- 10) *Age Discrimination Act of 1975, as amended* - No qualified person shall on the basis of age be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance.
- 11) *Title II of the Americans With Disability Act of 1990, as amended (42 U.S.C. §§ 12101et seq.)*, which prohibits discrimination on the basis of disability in programs, activities, and services provide or made available by state and local governments or instrumentalities or agencies thereto.
- 12) *Solicitation of Minority and Women-Owned Business Enterprises* - (A) If the Planning Agency intends to let any Subcontracts, the Planning Agency shall (1) place qualified small and minority businesses and women's business enterprises on its solicitation lists; (2) assure that small and minority businesses and women's business enterprises are solicited whenever they are potential sources; (3) divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises; (4) establish delivery schedules, where the requirement permits, which encourage participation by small and minority businesses and women's business enterprises; (5) use the services and assistance, as appropriate, of the Small Business Administration, the Minority Business Development Agency of the Department of Commerce, and the North Carolina Office for

Historically Underutilized Businesses. (B) For the purposes of Section XII.A., an entity shall qualify (1) as a "minority business" or "women's business enterprise" if it is currently certified as a North Carolina "historically underutilized business" under Chapter 143, Section 128.4(a) of the N.C. General Statutes (hereinafter G.S.), and (2) as a "small business" if it is independently owned and operated and is qualified under the Small Business Administration criteria and size standards at 13 C.F.R. Part 21.

- 13) *Termination of Agreement for Cause* – In accordance with Appendix II Part 200, if, through any cause, the Planning Agency shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or violate any of the covenants, conditions, or stipulations of this Agreement, the Local Government shall thereupon have the right to terminate this Agreement by giving written notice of such termination and specifying the effective date thereof. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared under this Agreement shall, at the option of the Local Government, become its property, and the Planning Agency shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials in direct proportion to the extent of services actually completed.
- 14) *Remedies/Sanctions or Breach of Contract Terms* - In accordance with Appendix II to Part 200, upon written notice, the Local Government may withhold payments to the Planning Agency if the Planning Agency shall fail to fulfill in a timely and proper manner its obligations to the Local Government under this contract, or if the Planning Agency shall violate any of the conditions of this contract. The Local Government shall in its written notice to the Planning Agency fully describe the nature of failure or violation by the Planning Agency, the corrective action required of the Planning Agency, and the Local Government shall allow the Planning Agency thirty (30) days from the date of the notification to correct such failure and/or violation. If such failure or violation is corrected by the Planning Agency within thirty (30) days from the date of notification, then the Local Government shall process payment(s) to the Planning Agency. If such failure or violation is not corrected within thirty (30) days from the date of the notification, then the Local Government may proceed to terminate this contract.
- 15) *Increasing Seatbelt Use in the United States* – Pursuant to Executive Order 13043, 62 Fed. Reg. 19,216 (April 18, 1997) the Planning Agency is encouraged to adopt and enforce on-the-job seat belt policies and programs for its employees when operating company-owned, rented, or personally owned vehicles.
- 16) *Reducing Text Messaging While Driving* – Pursuant to Executive Order 13513, 74 Fed. Reg. 51,225 (October 6, 2009) the Planning Agency is encouraged to adopt and enforce policies that ban text messaging while driving.



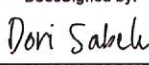
ATTACHMENT B

DEBARMENT STATUS CERTIFICATION

This form must be attached and made a part of all contracts obligated by grantees and paid with federal funds.

By entering into this Agreement, the CONTRACTOR certifies that they nor any person or firm who has an interest in the CONTRACTOR's firm is a person or firm ineligible to be awarded Government contracts by virtue of 29 CFR 5.12(a)(1), 2 CFR § 2424, 2 CFR § 180.220, and 40 U.S. Code § 3144, or if applicable, by virtue of Section 3(a) of the Davis-Bacon Act. No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of 29 CFR 5.12(a)(1), 29 CFR § 5.12, 2 CFR § 2424, 2 CFR § 180.220, and 40 U.S. Code § 3144, or, if applicable, by virtue of Section 3(a) of the Davis-Bacon Act. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001 and 18 U.S.C. 1010.

CONTRACTOR INFORMATION

DocuSigned by: 		WithersRavenel, Inc
(Authorized Signature)		(Name of Contractor)
Dori Sabeh, PE, GISP	Director of Stormwater	115 MacKenan Drive
(Printed Name and Title)		(Street Address and/or PO Box)
6/20/2024		Cary, NC 27511
(Date)		(City, State, Zip Code)
Fed ID 56-1740520 / Unique Entity ID - SK8ECFTPUH7		
(Unique Entity ID, Tax Identification or Social Security Number)		

FOR FUNDING RECIPIENT USE ONLY

The Federal List of Parties Excluded from Federal Procurement or Non-procurement Programs (www.sam.gov) and State of North Carolina Debarred Vendors List (<http://ncadmin.nc.gov/government-agencies/procurement/contracts/debarred-vendors>) have been checked and the above contractor or subcontractor has been determined to be eligible to participate in a federally assisted project. Attached is the documentation proving eligibility (websites printout).

(Signature of Verifying Officer)	(Local Government Name)
(Printed Name and Title)	(Project Name)
(Date)	(Project Number)

Federal Debarment Search
<https://sam.gov/content/home>



Unique Entity ID CAGE/NCAGE
SK8ECFTPUEH7 8T6L1

Expiration Date
Dec 4, 2024

Physical Address
**115 Mackenan DR
Cary, North Carolina
27511-7903, United States**

Mailing Address
**115 Mackenan DR
Cary, North Carolina
27511-7903, United States**

Purpose of Registration
All Awards

Version

Current Record ▼



WITHERSRAVENEL, INC

Unique Entity ID SK8ECFTPUEH7	CAGE / NCAGE 8T6L1	Purpose of Registration All Awards
Registration Status Active Registration	Expiration Date Dec 4, 2024	
Physical Address 115 Mackenan DR Cary, North Carolina 27511-7903 United States	Mailing Address 115 Mackenan DR Cary, North Carolina 27511-7903 United States	

Business Information

Doing Business as (blank)	Division Name (blank)	Division Number (blank)
Congressional District North Carolina 13	State / Country of Incorporation North Carolina / United States	URL www.withersravenel.com

Registration Dates

Activation Date Dec 7, 2023	Submission Date Dec 5, 2023	Initial Registration Date Aug 21, 2020
---------------------------------------	---------------------------------------	--

Entity Dates

Entity Start Date Apr 23, 1991	Fiscal Year End Close Date Dec 31
--	---

Immediate Owner

CAGE 8PQT6	Legal Business Name WITHERSRAVENEL, INC. EMPLOYEE STOCK OWNERSHIP TRUST
----------------------	---

Highest Level Owner

CAGE (blank)	Legal Business Name (blank)
------------------------	---------------------------------------

Executive Compensation

Registrants in the System for Award Management (SAM) respond to the Executive Compensation questions in accordance with Section 6202 of P.L. 110-252, amending the Federal Funding Accountability and Transparency Act (P.L. 109-282). This information is not displayed in SAM. It is sent to USAspending.gov for display in association with an eligible award. Maintaining an active registration in SAM demonstrates the registrant responded to the questions.

Proceedings Questions

Registrants in the System for Award Management (SAM.gov) respond to proceedings questions in accordance with FAR 52.209-7, FAR 52.209-9, or 2. C.F.R. 200 Appendix XII. Their responses are displayed in the responsibility/qualification section of SAM.gov. Maintaining an active registration in SAM.gov demonstrates the registrant responded to the proceedings questions.

Exclusion Summary

Active Exclusions Records?

No

SAM Search Authorization

I authorize my entity's non-sensitive information to be displayed in SAM public search results:

Yes

Entity Types

Business Types

Entity Structure Corporate Entity (Not Tax Exempt)	Entity Type Business or Organization	Organization Factors Subchapter S Corporation
Profit Structure For Profit Organization		

Socio-Economic Types

Check the registrant's Reps & Certs, if present, under FAR 52.212-3 or FAR 52.219-1 to determine if the entity is an SBA-certified HUBZone small business concern. Additional small business information may be found in the SBA's Dynamic Small Business Search if the entity completed the SBA supplemental pages during registration.

Financial Information

Accepts Credit Card Payments	Debt Subject To Offset
Yes	No

EFT Indicator	CAGE Code
0000	8T6L1

Points of Contact

Electronic Business

☒	115 Mackenan Drive
Christopher C Bryant	Cary, North Carolina 27511
	United States

Government Business

☒	115 Mackenan Drive
Kerry T Colwell	Cary, North Carolina 27511
	United States

Service Classifications

NAICS Codes

Primary	NAICS Codes	NAICS Title
Yes	541330	Engineering Services
	237110	Water And Sewer Line And Related Structures Construction
	237210	Land Subdivision
	237310	Highway, Street, And Bridge Construction
	237990	Other Heavy And Civil Engineering Construction
	513210	Software Publishers
	518210	Computing Infrastructure Providers, Data Processing, Web Hosting, And Related Services
	541320	Landscape Architectural Services
	541340	Drafting Services
	541360	Geophysical Surveying And Mapping Services
	541370	Surveying And Mapping (Except Geophysical) Services
	541512	Computer Systems Design Services
	541620	Environmental Consulting Services
	541990	All Other Professional, Scientific, And Technical Services
	561990	All Other Support Services
	562212	Solid Waste Landfill
	562910	Remediation Services

Product and Service Codes

PSC	PSC Name
B510	Special Studies/Analysis- Environmental Assessments
B517	Special Studies/Analysis- Geological
B532	Special Studies/Analysis- Soil

C219 Architect And Engineering- General: Other
F109 Environmental Systems Protection- Leaking Underground Storage Tank Support
F110 Environmental Systems Protection- Development Of Environmental Impact Statements And Assessments, Technical Analysis And Environmental Audits
R404 Support- Professional: Land Surveys-Cadastral (Non-Construction)
R425 Support- Professional: Engineering/Technical

Disaster Response

Yes, this entity appears in the disaster response registry.

Bonding Levels	Dollars
(blank)	(blank)

States

North Carolina

South Carolina

Virginia

Counties

(blank)

Metropolitan Statistical Areas

(blank)



ATTACHMENT C

E-VERIFY AFFIDAVIT

STATE OF NORTH CAROLINA

COUNTY OF Wake

I, C. CHAN BRYANT (the individual attesting below), being duly authorized by and on behalf of WithersRavenel (the entity bidding on project hereinafter "Employer") after first being duly sworn hereby swears or affirms as follows:

1. Employer understands that E-Verify is the federal E-Verify program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law in accordance with NCGS §64-25(5).
2. Employer understands that Employers Must Use E-Verify. Each employer, after hiring an employee to work in the United States, shall verify the work authorization of the employee through E-Verify in accordance with NCGS §64-26(a).
3. Employer is a person, business entity, or other organization that transacts business in this State and that employs 25 or more employees in this State. (mark Yes or No)
 - a. YES X, or
 - b. NO _____
4. Employer's subcontractors comply with E-Verify, and if Employer is the winning bidder on this project Employer will ensure compliance with E-Verify by any subcontractors subsequently hired by Employer.

This 5 day of January, 2023

Signature of Affiant: C. Chan Bryant

Print or Type Name: C. CHAN BRYANT

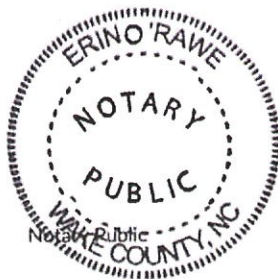
State of North Carolina County of Wake

Signed and sworn to (or affirmed) before me, this the 5

day of January, 2023

My Commission Expires:

10/18/26



(Affix Official/Notarial Seal)

Chapter 13 – Noises.

Sec. 13-1. Noise Nuisance Prohibited.

- A. General Prohibitions. It shall be unlawful to create, cause or allow the continuance of any unreasonably loud, disturbing, or frightening noise, particularly during the Nighttime, which substantially interferes with neighboring residents' reasonable use and enjoyment of their properties. For purposes of this Chapter, "Nighttime" is defined as the time between 11:00 p.m. and 8:00 a.m.
- B. Specific Prohibitions. The following acts are prohibited and shall be considered nuisance acts:
 - 1. Horns and signaling devices. The intentional sounding of any horn or signaling device of a motor vehicle on any street or public place continuously or intermittently, except as a danger or emergency warning.
 - 2. Motor vehicles. Operating or permitting the operation of any motor vehicle or motorcycle not equipped with a muffler or other device in good working order so as to effectively prevent loud or explosive noises therefrom.
 - 3. Exterior loudspeakers. Operating or permitting the operation of any mechanical device or loudspeaker, without a permit to do so, in a fixed or moveable position exterior to any building, or mounted on any aircraft or motor vehicle in such a manner that the sound therefrom is in excess of the maximum permitted sound level as defined in § 13-3.
 - 4. Power equipment. Operating or permitting the operation of any power saw, sander, drill, grinder, leaf blower, lawn mower, or other garden equipment, or tools of a similar nature, outdoors during Nighttime.
 - 5. Explosives. The use or firing of explosives, firearms, fireworks or similar devices which create impulsive sound without a permit from the Town.
 - 6. Security alarms. The sounding of a security alarm, for more than twenty (20) minutes after being notified by law enforcement personnel that the alarm has been activated.
 - 7. Dogs and other animals. Allowing one or more dogs or other animals to bark or make disturbing noises continuously or intermittently for more than thirty (30) minutes.
 - 8. Motor vehicle speakers or speakers located in or on a motor vehicle. Operating or permitting the operation of any speaker or sound in or on a motor vehicle in such a manner that the sound therefrom is in excess of the maximum permitted sound level as defined in § 13-3.

9. Musical instruments or sound amplification equipment. The playing of any musical instrument or electronic sound amplification equipment outdoors or from a motor vehicle during the Nighttime that can be heard from an adjoining property or at a distance of greater than twenty (20) feet from the source of the sound. This prohibition shall also apply to sounds produced and/or amplified by equipment located indoors, in the event that the sound propagates to the outside through the building so as to be heard as provided in this section.

Adopted: August 18, 1975

Revised: August 10, 1981; July 8, 2024 (Ordinance 24-3)

Sec. 13-2. Exceptions.

The following are exempt from the provisions of this subchapter:

- A. Sound emanating from regularly scheduled outdoor athletic events on the campus of schools within the Town's corporate limits.
- B. Construction operations from 7:00 a.m. to 9:00 p.m. weekdays and 8:00 a.m. to 9:00 p.m. on weekends for which building permits have been issued, or construction operations at any time for projects not requiring permits due to ownership of the project by an agency of the government, or any applicable exemption from permitting requirements. Provided, however, that all equipment used in connection with construction operations not requiring a permit shall be operated in accord with the manufacturer's mufflers and noise-reducing requirement is in use and in proper operating condition.
- C. Noises of safety signals, warning devices, emergency pressure relief valves, and all church bells.
- D. Noise resulting from any authorized emergency vehicle when responding to any emergency call or acting in time of emergency.
- E. Any other noise resulting from activities of a temporary duration permitted by law, and for which a license or permit shall be according to the conditions and limits stated on the permit and contained above.
- F. Unamplified and amplified sound at authorized festivals and parades.
- G. Parades and demonstrations exempted from permitting requirements including funeral processions, any governmental agency acting within the scope of its functions, and students going to or from school classes or participating in educational or recreational activity where the activity is under the supervision and direction of proper school authorities.

- H. All noises coming from the normal operations of properly equipped aircraft (not including scale model aircraft).
- I. All noises coming from the normal operation of motor vehicles properly equipped with the manufacturer's standard mufflers and in good working order.
- J. Noise from lawful fireworks and noisemakers on holidays and at religious ceremonies.
- K. Lawnmowers, agricultural equipment, and landscape maintenance equipment used between the hours of 6:00 a.m. and 10:00 p.m. when operated with all the manufacturer's standard mufflers and noise-regulating equipment in use and proper operating condition.
- L. Musical accompaniment or firearm discharge related to military ceremonies or funerals.
- M. Emergency work necessary to respite property to a safe condition following a fire, accident, or natural disaster, or to restore public utilities, or to protect persons or property from imminent danger.
- N. Noises resulting from the provision of government services.
- O. Noises resulting from the provision of utility or sanitation services between the hours 6:00 a.m. and 10:00 p.m. except in cases of an emergency.

Adopted: August 18, 1975

Revised: August 10, 1981; July 8, 2024 (Ordinance 24-3)

Sec. 13-3. Maximum Permitted Sound Levels.

In addition to the requirements of § 13-1, and except as otherwise provided herein or in conjunction with special events permits, it shall be unlawful for any person or group of persons, regardless of number, to willfully make, continue or cause to be made or continue any loud, raucous, and disturbing noise. For purposes of this subchapter, loud, raucous and disturbing noise shall mean any sound which, because of its volume level, duration and character, annoys, disturbs, injures or endangers the comfort, health, peace, or safety of reasonable persons of ordinary sensibilities within the corporate limits of the Town. The prohibition set forth in this section shall be limited to such loud, raucous, and disturbing noises as are heard upon the public streets, in any public park, in any school or public building or upon the grounds thereof while in use, in any church or hospital or upon the grounds thereof while in use, upon any parking lot open to members of the public as invitees or licensees, or in any occupied residential unit which is not the source of the noise, or upon the grounds thereof.

Adopted: August 18, 1975

Revised: August 10, 1981; July 8, 2024 (Ordinance 24-3)

Sec. 13-4. Permits to Exceed Limits.

- A. A person or group of persons may produce or cause to be produced sound in excess of the levels authorized in § 13-3, only if a permit to exceed the limit for the time and place of the activity has been obtained.
- B. Any person or group of persons desiring a permit shall apply as provided herein and shall provide all the information required. All applications shall be submitted to the Town Clerk at least five (5) business days prior to the scheduled event. Failure to comply with this requirement shall be grounds for denying the permit.
- C. The Town Manager or his designee shall have authority to take final action on all applications for permits specified in this subchapter. In considering acting to approve or deny issuance of permits, the Town Manager or his designee shall consider, but shall not limit consideration to the following: the timeliness of the application; the nature of the requested activity; previous experience with the applicant; the nature of the event; other activities in the vicinity of the location proposed; the frequency of the application; the cultural or social benefit of the proposed activity; the effect of the activity on the residential areas of the Town; previous violations of the requirements of this subchapter, if any, by the applicant.
- D. Permits to exceed limits shall specify the duration for which noncompliance shall be permitted and may prescribe the conditions or requirements necessary to minimize adverse effects upon the community or surrounding neighborhood. The Town Manager or his designee may require, without limitation, the following:
 - 1. That no sound speakers shall be set up more than ten (10) feet above the ground;
 - 2. That the permit holders change the arrangement of loudspeakers or sound instruments so as to minimize the disturbance to others resulting from the position or orientation of the speakers or from atmospherically or geographically caused dispersal of sound beyond the property lines.
- E. Permit holders shall agree to cooperate with the Police Department in enforcing these noise control regulations by having signers of the permit available at the site of the event during the entire time for which as permit has been issued and capable of assisting the Police Department in enforcing the requirements of this Chapter. Failure of the permittee or designees to be present or to assist the Police Department in compliance with this Chapter will result in revocation of the permit.

Adopted: August 18, 1975

Revised: August 10, 1981; July 8, 2024 (Ordinance 24-3)

Sec. 13-4. Complaints and Investigations.

It is the intent of the Town Council that violations of this Chapter should be investigated and administered by the Police Department in response to citizen complaints. Notwithstanding this intent, this section shall not be interpreted as prohibiting enforcement by the Police Chief, or any Police Officer, upon finding a violation of this Chapter in the course of official duties. In any event, the Police Chief or Police Officer enforcing this Chapter shall investigate any alleged violation in person to enable the Police Chief or Police Officer to personally attest to the violation.

Adopted: August 18, 1975

Revised: August 10, 1981; July 8, 2024 (Ordinance 24-3)

Sec. 13-5. Penalties.

Violation of any provision of the Chapter shall be grounds for immediate revocation of any permit issued pursuant to § 13-4. In addition, a person violating any provision of this Chapter may be charged with a civil fine as specified herein.

- A. The Town may recover penalties in the form of a civil action in the nature of a debt if the offender does not pay the penalty within five (5) business days after being cited for a violation.
- B. The following civil penalties are established for violations of this Chapter:
 - 1. Warning citation (to be issued in the discretion of the issuing officer): correct violation immediately.
 - 2. First citation - \$100.00.
 - 3. Second citation for same offense - \$250.00.
- C. In the event of a third violation for the same offense, the Police Officer shall charge the violator with a Class 3 misdemeanor pursuant to N.C.G.S. § 14-4(a) and a fine of five hundred dollars (\$500.00).
- D. No permits pursuant to 13-4 shall be issued to anyone with outstanding civil penalties or anyone guilty of a criminal violation hereunder for a period of three (3) years from the date of the conviction.
- E. In addition to the foregoing enforcement provisions, this Chapter may be enforced by any remedy provided in N.C.G.S. § 160A-175, including, but not limited to, all appropriate equitable remedies issued from a court of complete jurisdiction as provided in N.C.G.S. § 160A-175(e). This section specifically provides that each day's continuing violation shall be a separate and distinct offense.

Adopted: August 18, 1975

Revised: August 10, 1981; July 8, 2024 (Ordinance 24-3)

Chapter 14 – Nuisances

Sec. 14-1. Creation of Public Nuisances Unlawful.

- A. This Chapter is enacted pursuant to the Town's authority to define, prohibit, regulate, and abate acts, omissions, or conditions detrimental to the health, safety, or welfare of its citizens or the peace and dignity of the Town and to define and abate nuisances pursuant to N.C.G.S. §§ 160A-174 and -175; to summarily remove, abate, or remedy everything in the Town limits or within one (1) mile thereof that is dangerous or prejudicial to the public health or public safety pursuant to N.C.G.S. § 160A-193; and to provide annual notice to chronic violators pursuant to N.C.G.S. § 160A-200.1.
- B. Any person whose intentional acts or omissions results in a violation of this Chapter is responsible for the violation as provided herein. Any person who is a Responsible Person with respect to real property where a nuisance is or was maintained is responsible to abate the nuisance and/or may be subject to penalties as specified herein. For purposes of this Chapter, a Responsible Person includes any person who has ownership, legal control of, or actual possession of the property in question, including an owner, lessee, sublessee and/or occupant, as well as the invitees of any such person.
- C. The obligations set forth in this Chapter shall extend to the area between the property line of a lot and curb-line or edge of the roadway.

Adopted: August 18, 1975

Revised: July 8, 2024 (Ordinance 24-2)

Sec. 14-2. Public Nuisances Enumerated.

- A. The existence of any of the following conditions on any parcel of land within the Town, whether on public or private property and whether such property is improved or unimproved, is hereby declared to be dangerous and prejudicial to the public health and/or safety, and to constitute a public nuisance.
 - 1. The uncontrolled growth of weeds or grass to a height of ten inches (10'') inches or more within one hundred feet (100') of any principal structure or public right-of-way.
 - 2. Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or which is inhabited by rats, mice, snakes or vermin of any kind, which is or may be prejudicial to the public health.
 - 3. Any accumulation of trash garbage, or other waste not in compliance with the provisions of this Chapter.

4. Any accumulation of hazardous refuse or concentration of combustible items such as mattresses, carpet, boxes, paper, automobile tires, vehicle parts, old clothes, or any other combustible materials or objects of like nature.
5. Open wells.
6. Any accumulation of stagnant water causing or threatening to cause the inhabitation thereof by mosquitos.
7. The open storage of any item detrimental to the public health or safety, including but not limited to any furniture, appliance, refrigerator, freezer, stove, automobile tire(s) and parts, glass, building materials, or building rubbish.
8. Any condition detrimental to the public health which violates the rules and regulations of the Mitchell County Health Department.
9. The presence of any debris from the demolition of any structure on the property, including but not limited to partially demolished walls, foundations, basements, building materials and rubbish, after the cessation of all active demolition activity on the property.

- B. All abandoned, nuisance and junked vehicles shall be governed pursuant to Chapter 12, Article VI of the Town Code.

Adopted: August 18, 1975
Revised: July 8, 2024 (Ordinance 24-2)

Sec. 14-3. Duty to Investigate Possible Nuisance.

If an authorized code enforcement officer shall have reasonable cause to believe there is a violation of this Chapter, s/he shall have the right to enter on any premises within the Town at any reasonable hour in order to determine if there is a violation of this Chapter.

Adopted: August 18, 1975
Revised: July 8, 2024 (Ordinance 24-2)

Sec. 14-4. Notice and Order to Abate Nuisance.

- A. Notice of Existence and Opportunity to Abate Nuisance.

1. Upon a determination that a public nuisance as described in this Chapter exists, the code enforcement officer shall notify in writing the property owner and, to the extent actually known to the code enforcement officer,

any other Responsible Person of the condition constituting the public nuisance and shall order the prompt abatement thereof.

2. The notice of violation shall notify the recipient of the following:

- i. That condition(s) exist on the property which constitute a public nuisance;
- ii. The condition(s) existing and the Code provision(s) that are violated by such condition(s);
- iii. The location of such condition(s);
- iv. That the property owner and any other Responsible Person are ordered to abate the public nuisance, and that, unless the condition is abated within the prescribed period, the conditions constituting a nuisance will be abated by the Town and the cost of abatement shall constitute a lien against the premises, may be collected in the nature of a civil action.

B. Manner of Notice.

1. The notice of a violation of this Chapter shall be served on the property owner, and any Responsible Party if actually known to the code enforcement officer:
 - i. Personal delivery of such notice;
 - ii. By mail sent by both regular first class mail and by certified mail, return receipt requested, to the address then on file in the Mitchell County property tax assessor's office; or
 - iii. By electronic mail, if the property owner confirms receipt of the notice by electronic mail.
2. Any such notice may be served by any authorized representative of the Town Manager, his or her designee, the code enforcement officer, or by any Town police officer. If service cannot otherwise be made on a property owner, the property shall be posted with the notice. Notice shall be served in the same manner upon any other Responsible Party of whom the code enforcement officer is actually aware.

C. Except as provided at subsection (D) of this section, the Town ordinarily shall allow fifteen (15) calendar days from the receipt of such written notice for abatement of the nuisance. However, for good cause expressed in the written notice to abate, the code enforcement officer may provide a shorter or longer time for the abatement.

- D. Notwithstanding the foregoing provisions or any other provision of this Chapter, if, in the opinion of the Town Manager, his or her designee, or the code enforcement officer, an unlawful condition is such that it poses imminent danger or peril to public, the Town may, with or without prior notice, proceed to abate the same, and the cost thereof shall be charged against the property owner.
- E. Any defect in the method of giving the notice required by this section, or in the form thereof, or the giving of such notice to an improper person, shall not prevent the Town, in any case where the work of abating an unlawful condition upon any property is borne by the Town, from collecting the cost thereof from the owner, nor shall it affect the validity of the lien on the property for such cost, nor shall it subject the Town to any liability.

Adopted: August 18, 1975

Revised: July 8, 2024 (Ordinance 24-2)

Sec. 14-5. Appeal.

- A. Within the period for abatement specified on the notice of violation, the property owner or other Responsible Party may request in writing a review of the nuisance determination by the Town Manager. Unless the unlawful condition is dangerous so as to require summary abatement per the preceding section, such written request shall stay the abatement of the nuisance by the Town until the completion of the review by the Town Manager or his or her designee. In the event no appeal is taken, the Town may proceed to abate the nuisance.
- B. Within (10) ten days of receiving a request for review, the Town Manager shall hold a hearing to review the nuisance determination. At this hearing, all interested persons shall be heard and may offer evidence and be represented by an attorney. The hearing shall be conducted in an informal manner to determine whether there is a sufficient legal and factual basis to affirm the nuisance determination, and the rules of evidence shall not apply; provided, that the decision of the Town Manager shall be based upon substantial and reliable evidence. If, following the hearing, the Town Manager upholds the findings, and declares the condition existing on the property to be a danger and hazard to the health, safety, and general welfare of the inhabitants of the Town and a public nuisance, the Town Manager shall issue a written order directing the property owner or other Responsible Party to abate the nuisance within ten (10) days and/or, if the nuisance is not abated by the property owner, directing the Town to abate the condition constituting a nuisance.
- C. Rather than reviewing an appeal, the Town Manager, in his or her sole discretion, may for good cause refer the review of any notice of violation to the Town Council.
- D. If a nuisance is found to exist, the responsibility for abatement shall rest with the property owner and any other Responsible Party, notwithstanding that

the nuisance is found to exist, wholly or in part, within a Town easement which crosses private property.

- E. Nothing in this section shall prevent the property owner or other Responsible Party from abating the nuisance in question in accordance with the notice of violation prior to any requested review pursuant to this section.

Adopted: August 18, 1975
Revised: July 8, 2024 (Ordinance 24-2)

Sec. 14-6. Abatement of Nuisance by Town.

Upon the occurrence of any of the following conditions, the code enforcement officer shall cause such condition to be removed or otherwise remedied by having employees of the Town, or the Town authorized agents, go upon such premises and remove or otherwise abate such nuisance under the supervision of an officer or employee designated by the code enforcement officer:

- A. A hearing requested under § 14-5 results in either a final order with modifications or the reinstatement of the initial order as a final order, and such order is not complied with within ten (10) days from adjournment of the hearing.
- B. No hearing is requested or held, and the property owner and Responsible Party having been ordered to abate such public nuisance fails, neglects or refuses to abate or remove the condition constituting the nuisance within fifteen (15) days of such order.

Adopted: August 18, 1975
Revised: July 8, 2024 (Ordinance 24-2)

Sec. 14-7. Cost of Nuisance Abatement to be Charged to Property Owner.

Upon the completion of abatement by the Town, the Town Manager, his or her designee, or the code enforcement officer shall deliver to the Town's Finance Director a statement showing the actual cost of the abatement of the unlawful condition plus any additional charges, in accordance with the schedule of fees and charges established by the Town Council. The Finance Director shall thereupon mail to the owner of the subject property a bill covering the cost, if with reasonable diligence the name and address of such owner can be ascertained, with instruction that such charges are due and payable within thirty (30) days from the receipt thereof. In the event the costs for abatement are not paid within thirty (30) days after receipt of the statement of charges, such charges may be recovered by the Town in a civil action in the nature of debt.

Adopted: August 18, 1975
Revised: July 8, 2024 (Ordinance 24-2)

Sec. 14-8. Lien Created upon Failure to Pay Nuisance Abatement Costs.

In the event charges for the removal or abatement of the public nuisance are not paid within thirty (30) days after receipt of the statement of charges, such charges shall become a lien against the real property upon which such costs are incurred. The amount of such lien shall be added to the tax roll and collected as unpaid ad valorem taxes, provided, such charges shall bear interest at eight percent (8%) per annum until paid.

Adopted: August 18, 1975
Revised: July 8, 2024 (Ordinance 24-2)

Sec. 14-9. Chronic Violators.

A chronic violator is a person who owns property within the Town whereupon, in the previous calendar year, the Town gave notice of violation at least three (3) times under any provision of this Chapter. The Town may notify any chronic violator that, if the chronic violator's property is found to be in violation of this Chapter, the Town shall, without further notice in the calendar year in which the notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes.

Adopted: August 18, 1975
Revised: July 8, 2024 (Ordinance 24-2)

Sec. 14-10. Procedures in Chapter not Exclusive.

The procedures set forth in this Chapter shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances.

- A. Nothing in this Chapter shall be deemed to prevent the Town from proceeding in a criminal action against any person violating the provisions of this Chapter as provided in G.S. § 14-4.
- B. Nothing in this Chapter shall be deemed to limit the Town's authority to summarily remove, abate, or remedy any condition within the Town limits or within one (1) mile thereof that is dangerous or prejudicial to the public health or public safety as provided in N.C.G.S. § 160A-193.
- C. In addition to or in lieu of proceeding under any other provision(s) of this Chapter, the town may file a legal action to abate a nuisance as provided at N.C.G.S. § 160A-175.

Adopted: August 18, 1975
Revised: July 8, 2024 (Ordinance 24-2)

Chapter 12 – Motor Vehicles and Traffic

Article VI. Removal of Abandoned, Nuisance and Junked Vehicles.

Sec. 12-71. Definitions.

For the purpose of this Chapter, the following definitions shall apply:

- A. **Abandoned Vehicle.** Per N.C.G.S. § 160A-303, an Abandoned Vehicle is one that is left:
1. Upon a public street or highway in violation of a law or ordinance prohibiting parking;
 2. On the public property owned or operated by the Town for longer than twenty-four (24) hours;
 3. On private property without the consent of the owner, occupant or lessee for longer than two (2) hours; or
 4. On a public street or highway and is either: (i) left for longer than seven (7) days; or (ii) determined by law enforcement to be a hazard to the motoring public.
- B. **Authorizing Official.** The Spruce Pince Police Chief, or designated sworn law enforcement officer, or the Town Code Enforcement Officer, or designee, is designated to authorize the removal of Vehicles under the provisions of this Chapter.
- C. **Enclosed Area.** An area shall be deemed an Enclosed Area when surrounded by a fence, wall or other structure that is at least seven (7) feet tall measured from the ground, is constructed of an opaque material, and surrounds the area on all sides, such that Vehicles behind the said fence, wall or other structure are not visible from the public right-of-way or other private or public property.
- D. **Enclosed Structure.** A garage or building structure erected pursuant to the lawful issuance of a building permit, constructed in accordance with all applicable zoning and building code regulations and which provides a complete enclosure such that Vehicles are not visible from the public right-of-way or other private or public property.
- E. **Highway.** Per N.C.G.S. § 20-4.01(13), as the entire width between property or right-of-way lines of every way or place of whatever nature, when any part thereof is open to the use of the public as a matter of right for the purposes of vehicular traffic. The terms streets and roads and other cognates are included within the foregoing definition.

- F. **Junked Vehicle.** Per N.C.G.S. § 160A-303.2, a Vehicle which does not display a current license plate and that:
1. Is partially dismantled or wrecked;
 2. Cannot be self-propelled or moved in the manner in which it originally was intended to move; or
 3. Is more than five (5) years old and appears to be worth less than five hundred dollars (\$500).
- G. **Vehicle.** Any machine designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled Vehicle.
- H. **Nuisance Vehicle.** A Junked Vehicle or Vehicle with a current license plate on public or private property that is determined and declared to be a safety hazard, a public nuisance and unlawful, and is found to be:
1. Be a point of concentration of gasoline, oil or other flammable or explosive materials;
 2. Have accessible areas of confinement that cannot be opened from the inside, such as trunks, hoods, etc.;
 3. Be in danger of falling or turning over;
 4. Be a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind;
 5. Have or collect standing water;
 6. Have exposed sharp parts or edges of metal or glass; or
 7. Otherwise pose a health and safety hazard as determined by the Authorizing Official.

Adopted: August 18, 1975

Revised: July 13, 2009; July 8, 2024 (Ordinance 24-1)

Sec. 12-72. Administration.

- A. The Authorizing Official shall be responsible for the administration and enforcement of this Chapter. The Chief of Police, or designee sworn law enforcement officer, shall be responsible for administering the removal and the disposition of Abandoned Vehicles on the streets and highways within the Town and on property owned by the Town. The Code Enforcement Officer, or designee,

shall be responsible for administering the removal and disposition of Abandoned, Nuisance and Junked Vehicles located on private property.

- B. If the appropriate Authorizing Official has probable cause to believe a violation of this Chapter, the Authoring Official shall have the right to enter on any premises within the Town's corporate limits at any reasonable hour in order to determine if any Vehicle is in violation of this Chapter.
- C. The Town may, on an annual basis and with prior approval of the Town Council, contract with private tow truck operators to remove, store and dispose of Abandoned, Nuisance and Junked Vehicles in compliance with this Chapter and applicable state laws.
- D. Nothing herein shall be construed to limit the legal authority or powers of law enforcement or fire departments in enforcing other laws or otherwise carrying out their duties.

Adopted: August 18, 1975

Revised: July 13, 2009; July 8, 2024 (Ordinance 24-1)

Sec. 12-73. Vehicles Exemptions.

Nothing in this Chapter shall apply to any Abandoned, Nuisance or Junked Vehicle which is:

- A. Located in a bona fide "automobile graveyard" or "junk yard" as defined in N.C.G.S. § 136-143, in accordance with the Junk Yard Control Act, the same being N.C.G.S. §§ 136-141 *et seq.*, and in compliance with applicable zoning standards;
- B. Located in an Enclosed Structure or an Enclosed Area;
- C. On the property of a business enterprise being operated in a lawful place and manner if necessary to the operation of the business enterprise provided, however that the Abandoned, Nuisance or Junked Vehicle can not remain on the property outside of an Enclosed Structure or Enclosed Area for a period greater than seven (7) business days. Voluntarily removing a Vehicle from the property for a period of time then returning it or moving it into an Enclosed Structure or Enclosed Area and later returning it to an area that is not an Enclosed Structure or Enclosed Area shall not constitute a new seven (7) day period.
- D. In an appropriate storage place or depository maintained in a lawful place and manner by the Town; or
- E. Covered with a fitted cover designed for that Vehicle and parked on property so that the Vehicle cannot be seen from a public street or abutting property.

Adopted: August 18, 1975

Revised: July 13, 2009; July 8, 2024 (Ordinance 24-1)

Sec. 12-74. Abandoned Vehicles Prohibited; Removal Authorized.

- A. It shall be unlawful for the registered owner or person entitled to possession of a Vehicle to cause or allow the Vehicle to be an Abandoned Vehicle.
- B. Upon investigation, the Authorizing Official may determine that a Vehicle is an Abandoned Vehicle and order the Vehicle removed.

Adopted: August 18, 1975

Revised: July 13, 2009; July 8, 2024 (Ordinance 24-1)

Sec. 12-75. Nuisance Vehicles Prohibited; Removal Authorized.

- A. It shall be unlawful for the registered owner or person entitled to possession of a Vehicle, or for the owner, lessee or occupant of the real property upon which the Vehicle is located, to leave or allow the Vehicle to remain on the property after it has been declared a Nuisance Vehicle.
- B. Upon investigation, the Authorizing Official may determine and declare that a Vehicle is a health and/or safety hazard and a Nuisance Vehicle and order the Vehicle removed.

Adopted: August 18, 1975

Revised: July 13, 2009; July 8, 2024 (Ordinance 24-1)

Sec. 12-76. Junked Vehicles Prohibited; Removal Authorized.

- A. It shall be unlawful for the registered owner or person entitled to possession of a Junked Vehicle, or for the owner, lessee, or occupant of the real property upon which a Junked Vehicle is located, to leave or allow the Vehicle to remain on the property after the Vehicle has been ordered removed.
- B. The Authorizing Official may order the removal of a Junked Vehicle after finding, in writing, that the aesthetic benefits of removing the Vehicle outweigh the burdens imposed on the private property owner. The finding shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood or area appearance. The following, among other relevant factors, may be considered:
 - 1. Protection of property values;
 - 2. Promotion of tourism and other economic development opportunities;

3. Indirect protection of public health and safety;
4. Preservation of the character and integrity of the community; and
5. Promotion of the comfort, happiness and emotional stability of area residents.

Adopted: August 18, 1975

Revised: July 13, 2009; July 8, 2024 (Ordinance 24-1)

Sec. 12-77. Removal of Vehicles in Violation; Towing Notice Requirements.

- A. Except as set forth in Section 12-78, an Abandoned, Nuisance or Junked Vehicle which is to be removed shall be towed only after notice to the registered owner or person entitled to possession of the Vehicle.
 1. In the case of a Nuisance or a Junked Vehicle, if the names and mailing addresses of the registered owner or person entitled to the possession of the Vehicle, or the owner, lessee or occupant of the real property upon which the Vehicle is located, can be ascertained in the exercise of reasonable diligence, notice shall be given by first class mail. The person who mails the notice shall retain a written record to show the names and addresses to which it was mailed, and the date mailed. If the names and addresses cannot be ascertained or if the Vehicle to be removed is an Abandoned Vehicle, notice shall be given by affixing on the windshield or some other conspicuous place on the Vehicle a notice indicating that the Vehicle will be removed by the Town on a specified date, but no sooner than seven (7) calendar days after the notice is affixed.
 2. Whether notice is by first class mail or by posting as provided above, the notice shall state that the Vehicle will be removed by the Town on specified date, not sooner than seven (7) calendar days after the notice is affixed or mailed, unless the Vehicle is removed by the owner or legal possessor prior to that time.
- B. With respect to Abandoned Vehicles on private property and Nuisance and Junked Vehicles, if the registered owner or person entitled to possession does not remove the Vehicle but chooses to appeal the determination that the Vehicle is an Abandoned or Nuisance Vehicle, or in the case of a Junked Vehicle that the aesthetic benefits of removing the Vehicle outweigh the burdens, the appeal shall be made to the Town Manager in writing, within seven (7) calendar days after receipt of notice. The Town Manager shall set a time for the appeal and hear it within a reasonable amount of time, not less than ten (10) calendar days after receiving the request for the appeal. Further proceedings to remove the Vehicle shall be stayed until the appeal is heard and decided. In the event that the owner of

person entitled to possession fails to reasonably pursue the appeal, shall be deemed abandoned and the Vehicle ordered removed.

- C. Any Abandoned, Nuisance or Junked Vehicle which has been ordered removed may, as directed by the Town, be removed to a storage garage or area by the tow truck operator or towing business contracting to perform the services for the Town. Whenever a Vehicle is removed, the Authorizing Official shall immediately notify the last known registered owner of the Vehicle, and the notice shall include the following:
 - 1. The description of the removed Vehicle;
 - 2. The location where the Vehicle is stored;
 - 3. The violation with which the owner is charged, if any;
 - 4. The procedure the owner must follow to redeem the Vehicle; and
 - 5. The procedure the owner must follow to request a probable cause hearing on the removal.
- D. The Town shall attempt to give notice to the Vehicle owner by telephone. However, whether or not the owner is reached by telephone, written notice, including the information set forth in divisions (C)(1) through (C)(5) above, shall also be mailed to the registered owner's last known address, unless this notice is waived in writing by the Vehicle owner or the owner's agent.
- E. If the vehicle is registered in the state of North Carolina, notice shall be given within twenty-four (24) hours. If the vehicle is not registered in the state of North Carolina, notice shall be given to the registered owner within seventy-two (72) hours form the removal of the vehicle.
- F. Whenever an Abandoned, Nuisance or Junked Vehicle is removed, and the Vehicle has no valid registration or registration plates, the Authorizing Official shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify the owner of the information set forth in divisions (C)(1) through (C) (5) above.

Adopted: August 18, 1975

Revised: July 13, 2009; July 8, 2024 (Ordinance 24-1)

Sec. 12-78. Exception to Prior Notice Requirements.

- A. The requirement that notice be given prior to the removal of an Abandoned, Nuisance or Junked Vehicle may, as determined by the Authorizing Official, be omitted in those circumstances where there is a special need for prompt action to

eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare.

- B. The findings shall, in all cases, be entered by the Authorizing Official in the appropriate daily records. Circumstances justifying removal of vehicles without prior notice include:
1. Vehicles abandoned on the public streets and highways, for which the Town hereby determines that immediate removal of the same may be warranted when they are:
 - a. Obstructing traffic;
 - b. Parked in violation of an ordinance prohibiting or restricting parking;
 - c. Parked in a no stopping or standing zone;
 - d. Parked in a loading zone;
 - e. Parked in a bus zone; or
 - f. Parked in violation of temporary parking restrictions.
 2. With respect to an Abandoned or Nuisance Vehicle left on property other than the streets and highways, such a Vehicle may be removed without giving prior notice only in circumstances where the Authorizing Official finds a special need for prompt action to protect and maintain the public health, safety and welfare. By way of illustration and not of limitation, such circumstances include those in which a Vehicle is blocking or obstructing ingress or egress to a businesses or residence, poses a traffic hazard, or is causing damage to public property or to the private property of another.

Adopted: August 18, 1975

Revised: July 13, 2009; July 8, 2024 (Ordinance 24-1)

Sec. 12-79. Right to Probable Cause Hearing before Sale or Final Disposition of Vehicle.

- A. After the removal of an Abandoned, Nuisance or Junked Vehicle, the owner or any other person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the Vehicle pursuant to N.C.G.S. § 20-219.11. A request for hearing must be filed in writing with the County Magistrate designated by the Chief District Court Judge to receive the hearing requests. The Magistrate will set the hearing within 72 hours of receipt of the request, and the hearing will be conducted in accordance with the provisions of N.C.G.S. § 20-219.11.

- B. The only issue at this hearing is whether or not probable cause existed for the towing. If the County Magistrate finds that probable cause did exist, the tower's lien continues. If the County Magistrate finds that probable cause did not exist, the tower's lien is extinguished.
- C. Any aggrieved party may appeal the County Magistrate's decision to District Court.
- D. The Town shall pay the towing and storage charges if the District Court's decision is that no probable cause existed for the tow of the Vehicle.

Adopted: August 18, 1975

Revised: July 13, 2009; July 8, 2024 (Ordinance 24-1)

Sec. 12-79. Redemption of Vehicle During Proceedings.

Unless such Vehicle is being detained by police as evidence, in accordance with N.C.G.S. § 20-219.12, at any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of the removed Vehicle by paying the towing fee, including any storage charges, or by posting a bond for double the amount of the fees and charges to the tow truck operator or towing business having custody of the removed Vehicle. Upon regaining possession of a Vehicle, the owner or person entitled to the possession of the Vehicle shall not allow or engage in further violations of this Chapter.

Adopted: August 18, 1975

Revised: July 13, 2009; July 8, 2024 (Ordinance 24-1)

Sec. 12-80. Sale and Disposition of Unclaimed Vehicle.

Any Abandoned, Nuisance or Junked Vehicle which is not claimed by the owner or other party entitled to possession will be disposed of by the tow truck operator or towing business having custody of the Vehicle after being held for thirty (30) days. Disposition of the Vehicle shall be carried out in coordination with the Town and in accordance with N.C.G.S. §§ 44A-1 et seq.

Adopted: August 18, 1975

Revised: July 13, 2009; July 8, 2024 (Ordinance 24-1)

Sec. 12-80. Conditions on Removal of Vehicles from Private Property.

As a general policy, the Town will not remove a Vehicle from private property if the owner, occupant or lessee of the property could have the Vehicle removed under applicable state law procedures. In no case will a Vehicle be removed by the Town from private property without a written request of the owner, occupant or lessee, except in those cases where a Vehicle is a Nuisance or Junked Vehicle and has been ordered removed by the Authorizing Official. The Town may require any person requesting the removal of an Abandoned, Nuisance or Junked Vehicle from private property to indemnify the Town against any loss, expense or liability incurred because

of the removal, storage or sale thereof. The Town will not remove or dispose of any Vehicle that is used on a regular basis for business or personal use.

Adopted: August 18, 1975

Revised: July 13, 2009; July 8, 2024 (Ordinance 24-1)

Sec. 12-81. Protection against Criminal or Civil Liability.

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an Abandoned, Nuisance or Junked Vehicle, for disposing of the Vehicle as provided in this Chapter.

Adopted: August 18, 1975

Revised: July 13, 2009; July 8, 2024 (Ordinance 24-1)

Sec. 12-82. Unlawful Removal of Impounded Vehicle.

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the Town any Vehicle which has been impounded pursuant to the provisions of this Chapter unless and until all towing and impoundment fees which are due, or bond in lieu of the fees, have been paid.

Adopted: August 18, 1975

Revised: July 13, 2009; July 8, 2024 (Ordinance 24-1)