



September 28, 2016

Mr. Rusty Ellis, Director
Jackson County Recreation & Parks Department

Via Email

Re: Agreement for Consulting Services
Preliminary Engineering Report for
Cashiers Public Swimming Pool
Jackson County, North Carolina

Dear Mr. Ellis:

We appreciate the opportunity to submit an agreement for preliminary consulting services related to the Cashiers Swimming Pool. Please find attached a copy of our proposed agreement for your consideration.

The enclosed agreement is based on our understanding of your project at this time. If the services we are proposing do not meet the County's current needs, please contact us and we will revise the agreement accordingly. If acceptable, please email or mail a signed copy of the agreement back to us.

Please feel free to call me should you have any questions or wish to discuss your project in detail. We look forward to hearing from you.

Sincerely,
Lofquist & Associates, Inc.

Victor Lofquist, P.E.

- enclosures

Professional Services Agreement
Preliminary Engineering Report for
Cashiers Public Swimming Pool Maintenance and Repairs
Jackson County, NC

Project Location & Understanding

Jackson County owns and operates a public swimming pool located on Frank Allen Road in Cashiers, N.C. The project includes developing a preliminary engineering report on the existing Cashiers Public Swimming Pool to evaluate current conditions and make preliminary recommendations on repairs, improvements and maintenance. The following summarizes the work to be performed by the consultant under this agreement.

Scope of Services

The consultant proposes to provide the following scope of services for the fee listed:

1. The consultant will review any available data sources such as old plans, available records and data.
2. The consultant will conduct visit(s) to the site, visually evaluating existing swimming pool conditions and developing preliminary recommendations for repairs, improvements and maintenance based on a combination of reviewing information described under Item #1 and the consultant's visual field observations.
3. The consultant will develop a schematic plan of the swimming pool identifying the locations of the various swimming pool major components.
4. Through preliminary evaluations, the consultant will make recommendations on repairs and improvements as well as recommendations on phasing the implementation of recommendations.
5. The consultant will develop a preliminary engineer's cost estimate for the recommended improvements with the cost estimate being detailed by recommended phases of work and major components of work.
6. The consultant will develop preliminary recommendations on annual routine maintenance, develop preliminary estimated annual costs for maintenance and present preliminary recommendations for an annual maintenance budget.
7. The consultant will summarize their preliminary work in the form of a letter report, including preliminary cost estimates and preliminary maintenance budget recommendations and provide the preliminary engineer to the client in pdf format.

The consultant will perform the services described under items 1 through 7 for a fixed fee of \$7,250.00, including expenses. Additional services can be provided for a mutually agreed upon fee, if requested by the client.

Conditions of Agreement

- A. Prior to commencement of the consultant's work, the client agrees to provide the consultant with any available records and data and their input on repair and improvement needs related to the swimming pool.
- B. The consultant will develop one report with the consultant's preliminary recommendations for the existing swimming pool using the client's initial data, input and ideas as the basis of the report. Additional or alternate ideas can be developed by the consultant, if requested by the client, as an additional service.
- C. The client understands that the services to be provided under this agreement are preliminary and cannot be used for permitting or construction. Additional work will be required to develop final plans. Upon completion of the preliminary services to be provided under this agreement, the consultant can provide the client with a proposal for final design services and associated fees. The services to be provided by the consultant under this agreement do not include any of the following: final designs, surveying, construction documents/negotiations, surveying, land title or right-of-way research, structural analyses, soil or subgrade evaluations, or environmental assessments.

AGREEMENT FOR PROFESSIONAL SERVICES

This is an agreement effective as of September 28, 2016 between JACKSON COUNTY ("client") and LOFQUIST & ASSOCIATES, INC. ("consultant"). The consultant agrees to provide, or cause to be provided, the services set forth in this agreement and described under "scope of services" to the client. The client agrees to make payment for these services in accordance with this agreement. Consultant and client further agree as follows:

1.01 General Considerations

The standard of care for all professional engineering and related services performed or furnished by the consultant under this agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Consultant makes no warranties, express or implied, under this agreement or otherwise, in connection with consultant's services. Consultant and its sub-consultants may use or rely upon the design services of others, including, but not limited to, contractors, manufacturers, and suppliers.

Consultant shall not at any time supervise, direct, or have control over any contractor's work, nor shall consultant have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, for safety precautions and programs incident to a contractor's work progress, nor for any failure of any contractor to comply with laws and regulations applicable to contractor's work. Consultant neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform its work in accordance with the contract between client and such contractor. Consultant shall not be responsible for the acts or omissions of any contractor, subcontractor, or supplier, or of any contractor's agents or employees or any other persons at the project site or otherwise furnishing or performing any of construction work; or for any decision made on interpretations or clarifications of the construction contract given by client without consultation and advice of consultant.

All design documents prepared or furnished by consultant are instruments of service, and consultant retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the project is completed. Client agrees not to use design documents or any portion thereof for any other purpose or other project. Digital files of standard specifications and standard details are not available to the client in cad or word processing formats.

To the fullest extent permitted by law, client and consultant (1) waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the project, and (2) agree that consultant's total liability to client under this agreement shall be limited to \$50,000 or the total amount of compensation received by consultant, whichever is greater.

The parties acknowledge that consultant's scope of services does not include any services related to a Hazardous Environmental Condition (the presence of asbestos, PCBs, petroleum, hazardous substances or waste, and radioactive materials). If consultant or any other party encounters a Hazardous Environmental Condition, consultant may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the project affected thereby until client: (i) retains appropriate specialists or contractors to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (ii) warrants that the Site is in full compliance with applicable Laws and Regulations.

The client understands that any cost estimates to be provided under this agreement are the consultant's opinion of anticipated costs for the type of work proposed. The consultant will base the cost opinion on experience and their knowledge of construction industry trends. The consultant can not guarantee the accuracy of cost estimates. Cost estimates are therefore not intended for firm budgeting or negotiations. The client understands that the actual costs of work are affected by many factors beyond the consultant's control.

The client agrees to furnish the consultant with valid documents, materials and information as necessary for the consultant to complete their work. The client agrees to provide the consultant with access to the project site as needed to perform their services. The Client understands that permitting fees, the cost of advertisements, utility related fees and any other fees not specifically noted to be included in the consultant's fees are to be paid directly by the client and are not included in the consultant's fees.

2.01 Payment Procedures

Where payment is not made in advance by the client in the form of a retainer, the consultant will prepare a monthly invoice in accordance with consultant's standard invoicing practices and submit the invoice to client. The client understands that invoices are due and payable within 20 days of the date of the invoice. If client fails to make any payment due consultant for services and expenses within 20 days after the date of the consultant's invoice, the amounts due consultant will be increased at the rate of 1.0% per month from said payment due date. In addition, consultant may, without liability, after giving notice to client, suspend services under this agreement until consultant has been paid in full all amounts due for services, expenses, and other related charges. Payments will be credited first to interest and then to principal.

3.01 Additional Services

If authorized by client and agreed to by consultant, consultant shall furnish services in addition to those set forth under the scope of services. Client shall pay consultant for such additional services in accordance with consultant's current rate schedule or a mutually agreed upon fixed fee.

4.01 Termination

The obligation to provide further services under this agreement may be terminated by either the client or consultant. In the event of termination, the consultant agrees to furnish the client with printed copies of any pertinent project documents and incomplete, preliminary designs. Client agrees to pay consultant for all work, time and expenses incurred to date on the project. Client acknowledges that incomplete documents and plans can not be used for construction or other purposes. The consultant shall have no liability to client on account of such termination. If mutually agreed upon by both the client and the consultant, the effective date of termination may be set at a time up to 30 days later than otherwise provided to allow consultant to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble project materials in orderly files. The consultant shall reimburse the client any unspent portion of retainers paid by the client in the event of termination.

5.01 Successors, Assigns, and Beneficiaries

Client and consultant each is hereby bound and the partners, successors, executors, administrators, and legal representatives of client and are hereby bound to the other party to this agreement and to the partners, successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this agreement. Neither consultant nor client may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this agreement.

6.01 Controlling Law

This agreement is to be governed by the laws of the State of North Carolina.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated above.

Client: JACKSON COUNTY

By: _____

Title: _____

Consultant: LOFQUIST & ASSOCIATES, INC.

By: 
Victor W. Lofquist, P.E.

Title: President